

EPC COMMISSION MINUTES & AGENDA

MONTH July

YEAR 1989

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Minutes of the Environmental Protection Commission Meeting

July 17-18, 1989

Wallace State Office Building, Des Moines, Iowa

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The Department solicited bids from fourteen consulting firms to drill approximately twelve observation wells at various locations within the city of Fayette. Four bids were received. The observation wells are being installed in order to determine the source of organic octane booster that has been leaking into one of the city water wells located on the north edge of town. Gasoline was also found seeping out of the ground due north of the well and entering the Volga River.

Gasoline stations in the town are equipped with sniffer or groundwater monitoring wells and leaks have not been detected. EPA has authorized the department to conduct assessments in the area in order to determine the responsible party.

A contract to drill and log twelve assessment holes was entered into with the low bidder, Twin City Testing of Waterloo, Iowa for a total cost of \$17,740.

The Underground Storage Tank Section was originally going to perform all sampling and analysis at the well sites, but after reviewing the requirements and equipment needs, it was felt that the consultant would be in a better position to conduct the entire assessment and prepare the findings report with the department's staff being on site to observe and take duplicate samples as needed. The department issued a change order amending the original scope of the project to include the testing and investigation reports to be done by Twin City Testing for an additional \$16,626.

Under the Administrative Rule regarding consultant contracting, the Director has authority to let contracts for less than \$25,000. The Director also has authority to approve change or extra work orders that are not more than \$25,000, or 10% of the original contractor, whichever is greater.

Due to the amount of the extra work order relative to the original contract, these actions might be interpreted as an attempt to avoid Commission approval of the contract during audit or other review. Thus, we are presenting the Commission with this information to avoid any later misunderstandings.

This was an informational item; no action was required.

FY90 BUDGET REVIEW, AND FY91 REQUEST PREPARATION

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The budget staff is finalizing the internal working budget for FY90 based on various legislative actions. Per H.F. 372, the

JULY 1989 COMMISSION MEETING

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building, Des Moines, Iowa, convening at 1:30 p.m. on July 17, 1989.

MEMBERS PRESENT

William Ehm, Rozanne King, Richard Hartsuck, Charlotte Mohr, Margaret Prah, Gary Priebe, and Clark Yeager, *Nancy Lee Siebenmann*.

MEMBERS ABSENT

Mike Earley, ~~Nancy Lee Siebenmann~~.

ADOPTION OF AGENDA

The following item was added to the agenda:

Item 13(f) City of Ogden

Motion was made by Margaret Prah to approve the agenda as amended. Seconded by Clark Yeager. Motion carried unanimously.

ADOPTION OF MINUTES

Motion was made by Margaret Prah to approve the minutes of June 19-20, 1989 as presented. Seconded by Richard Hartsuck. Motion carried unanimously.

CITY OF FAYETTE SITE ASSESSMENT CONTRACT

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

EPC's budget authority relates to programs authorized by Chapters 455B, 455C, 455E, and 455F.

At the July meeting, the staff will present budget schedules relating to the Environmental Protection Division, the Waste Management Authority Division, and the Groundwater Program. This will include revenue and expenditure schedules, and staffing summaries.

Last year, in addition to the FY90 request, a similar request was also submitted for FY91. The Department of Management is expected to provide instructions shortly relating to updating and adjusting the previous submission of the FY91 budget for consideration by the Governor and the General Assembly next session. The staff will have a very short time frame to prepare these adjustments to the FY91 request. Therefore, any issues or concerns that the Commission desires to address in the FY91 request should be provided to staff at the next meeting.

Mr. Kuhn distributed copies of budget schedules relating to the Environmental Protection Division and explained same. He noted that the department is just finishing revision of the budget approved by the Commission last fall as it was amended by the Governor, the General Assembly, and the federal government. He asked that the Commission notify staff of any changes they would like to see in the FY 91 and FY 92 Budget Request. The detailed instructions for preparing the budget was received by the department last Friday and the time frame for completing the FY 91 Budget Request is September 1.

Margaret Prah1 commented that it would be good to have last year's budget as well as last year's actual shown. Also, Mrs. Prah1 requested that a narrative with the department's goals and objectives be included with the budget item. She related that it is difficult to understand the budget without accompanying information.

Mr. Kuhn explained the Commission's budget authority. He also explained the budget process through the state system as well as deadlines set by the legislature and the Department of Management.

NancyLee Siebenmann pointed out the considerable disparity between the budgeted amount for the Leopold Center and the University of Iowa Center for Health Effects, and she asked if it is going to continue that way.

Mr. Kuhn stated that legislation dictates certain percentages from the Agricultural Management Account to go for specific items. Neither the staff or the Commission has the ability to alter those percentages unless the general assembly take a legislative action to do so.

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Mrs. Siebenmann suggested that the Commission look at a possible change in this disparity and bring it before the legislature next year.

Motion was made by Margaret Prahl to direct staff to provide a narrative with goals and an explanation of the proposed FY 89 and FY 90 budget for consideration at the next meeting. Seconded by Nancylee Siebenmann.

Mr. Kuhn stated that staff will certainly attempt to do that, but he is not sure that it is appropriate for the Commission to direct the staff because staff responds to the Director.

Margaret Prahl amended her motion to direct the Director to have the staff provide that information. Nancylee Siebenmann concurred with the amendment. Motion carried unanimously.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

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IOWA DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION RULEMAKING STATUS REPORT July 1, 1989

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 60-62 - Water Quality Standards	7/17/89	*8/09/89		8/29/89 8/30/89 8/31/89 9/06/89				
2. Ch. 62 - Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions	5/22/89	6/14/89	7/11/89	7/05/89				
3. Ch. 91 - Criteria for Award of Grants	7/17/89	*8/09/89		8/30/89				
4. Ch. 101-106 - Landfill Closure Post-Closure, Leachate	4/17/89	5/03/89	6/07/89	6/06/89 6/07/89 6/08/89				
5. Ch. 133 - General Guidelines for Determining Clean-Up Actions and Responsible Parties	3/01/89	3/22/89	4/20/89	4/11-12/89 4/18-19/89 4/25-26/89	6/19/89	6/19/89	*7/12/89	*8/16/89
6. Ch. 135-136 - UST, Financial Responsibility	1/23/89	2/22/89	3/13/89	3/16/89	7/17/89	*7/17/89	*8/09/89	*9/13/89

*Projected

Monthly Variance Report

6/30/89

No. Facility	Program	Engineer	Subject	Decision	Date
1 Pleasantville, City of	Wastewater Const.	Garden & Associates	Minimum Sower Size	approved	06/01/89
2 Albia, City of	Wastewater Const.	Garden & Associates	Emergency Fower	approved	06/08/89
3 Des Moines, City of	Wastewater Const.	Veenstra & Kin Engr	Land Application - Soil pH	approved	06/20/89
4 Wright Co.San.Landfill	Solid Waste	MER Engineering	Coal Combustion Res.	denied	06/01/89
5 Holden Foundation Seed	Watersupply Const.	Richard Fugh	Construction Materials	approved	06/01/89
6 Littlefield Rec. Area	Watersupply Const.	Audubon Co. Engr.	Construction Materials	approved	06/01/89
7 Nursery Drive Estates	Watersupply Const.	Tigges Engineering	Construction Materials	approved	06/01/89
8 Wildwood Wly Dallas Co	Watersupply Const.	Bishop Engineering	Construction Materials	approved	06/01/89

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TOPIC: Report of Hazardous Conditions

During the period 06/01/89 through 06/30/89, reports of 68 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted below. A general summary and count by field office is attached. These do not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
06/10/89 DECATUR	Vandals broke into a service station at Exit 22 of I-35 near Van Wert, Iowa on June 10, 1989, and turned on the pump for the diesel fuel. About 2200 gallons of the product ran into a ditch.	J&L Oil Co. Box 74 Van Wert, Iowa 50262	Local responders initially placed water and soap on the material. They were advised to stop, pump up the liquid, remove contaminated soil, and place it on plastic until arrangements could be made for disposal.
06/23/89 CLINTON	A tank truck operator overfilled an aboveground storage tank at Camanche, Iowa on June 23, 1989. About 1880 lbs. of 67% nitric acid flowed into a diked area.	Hawkeye Chemical P.O. Drawer 899 Clinton, Iowa 52732	Lime was used to neutralize the acid, and the neutralized material was spread on a gravel area on the plant site.

Numbers in Parentheses Represent Reports for the Same Period in Fiscal Year 1988

Substance Type					Mode					
Month	Total # of Incidents	Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	47	20	8	19	25	0	14	3	0	5
Nov	55	27	9	19	35	3	12	1	0	4
Dec	44	21	3	20	29	0	9	1	1	4
Jan	54	32	6	16	32	0	10	3	3	6
Feb	52	25	11	16	36	2	5	3	2	4
Mar	50	34	2	14	30	2	12	1	0	5
Apr	78	28	33	17	54	0	19	1	1	3
May	124	33	57	34	56	2	52	2	1	11
Jun	68(77)	28(37)	15(14)	25(26)	42(51)	1(0)	19(19)	0(4)	0(0)	6(3)

Total # of Incidents Per
Field Office
This Period

01	02	03	04	05	06
14	5	5	5	21	18

REPORTS OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of June 1, 1989 through June 30, 1989, the following number of releases from underground storage tanks were identified.

40 (17)

The number in parentheses represents the number of releases during the same period in Fiscal Year 1988.

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Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Dale Van Engen, Sibley (3)	Air Quality	Open Burning	Order/Penalty	6-2-89
Soo Line Railroad Co., Mason City (2)	Hazardous Condition	Remedial Action	Order/Penalty	6-5-89
Cerro Gordo Co. Area Solid Waste Agency, Mason City (2)	Solid Waste	Cover Violations	Order/Penalty	6-5-89
Circle Hill Farms, Ltd., Ellsworth (2)	Solid Waste	Open Dumping	Order/Penalty	6-9-89
Floyd-Mitchell Solid Waste Agency, Charles City (2)	Solid Waste	Cover Violations	Order/Penalty	6-9-89
NorOats, Inc., St. Ansgar (2)	Air Quality	Construction Without Permit	Order/Penalty	6-9-89
AGP (formerly Agri Industries), Mason City (2)	Air Quality	Construction Without Permit	Order/Penalty	6-9-89
Northwestern States Portland Cement Co., Mason City (2)	Air Quality	Construction Without Permit	Order/Penalty	6-9-89
Richard Kleindolph, Muscatine (6)	Solid Waste	Open Dumping	Order/Penalty	6-16-89
Waverly Gravel & Ready-Mix Co., d/b/a Shell Rock Sand & Gravel, Shell Rock (2)	Air Quality	Construction Without Permit	Order	6-21-89
Sylvan Acres, Janesville (1)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	6-21-89
Lyn-Den Heights Homeowner's Assoc., Iowa City (6)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	6-21-89
Grain Processing Corp., Muscatine (6)	Air Quality	Construction Without Permit	Order/Penalty	6-21-89
Valley View Estates #1, Muscatine (6)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	6-21-89
Rake Water Supply (4)	Drinking Water	Monitoring/Reporting - Bacteria & Inorganics	Order/Penalty	6-21-89
Touchdown Co., et. al., Webster City (2)	Underground Tank	Prohibited Discharge-Failure to Report Hazardous Condition	Referred to AG	6-21-89
Clinton Pallet Co., Clinton (6)	Solid Waste	Open Dumping	Referred to AG	6-21-89
Eagle Wrecking Co., Pottawattamie Co. (4)	Solid Waste	Open Dumping	Referred to AG	6-21-89
Kirshma A. Birusingh, Crescent (4)	Solid Waste	Open Dumping	Referred to AG	6-21-89
Amoco Oil Co., Stuart (4)	Underground Tank	Prohibited Discharge-Failure to Report Hazardous Condition	Referred to AG	6-21-89
Ken Turner, Ft. Madison (6)	Solid Waste	Open Dumping	Referred to AG	6-21-89
Winnebago Industries, Inc., Forest City (2)	Air Quality	Failure to Obtain Permit	Referred to AG	6-21-89
Henry County Sanitary Landfill Comm., Mt. Pleasant (6)	Solid Waste	Cover Violations	Referred to AG	6-21-89

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Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Cozy Cafe, Lucas (5)	Drinking Water	Monitoring/Reporting-Bacteria, MCL, Public Notice	Order/Penalty	6-21-89
Midland Brick, Ottumwa (6)	Air Quality	Emission Standards	Order	6-26-89
Robert Fisch, Manchester (1)	Air Quality	Open Burning	Order/Penalty	6-28-89
Jeffrey Allen Miller, Shell Rock (2)	Air Quality	Open Burning	Order/Penalty	6-28-89
Lehigh Portland Cement Co., Mason City (2)	Hazardous Condition	Remedial Action	Order	6-28-89

Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
*Shelter Shield (Buffalo Center)	AQ	1,000	12-03-86
*JTM Indust./MacDade/Leamer (Pleasant Valley)	SW	1,000	8-12-87
*OK Lounge (Marion)	WS	448	11-01-87
*Richard Davis (Albia)	SW	1,000	2-28-88
*Handi-Klasp, Inc. (Webster City)	WW/HC	1,000	8-02-88
*McCabe's Supper Club (Burr Oak)	WS	315	12-14-88
*Wee Willy's (Quasqueton)	WS	450	2-23-89
*Krause-Gentle Corp. (Laurel)	HC	1,000	3-17-89
*Austin Rumley (Leon)	FP	600	4-06-89
*Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Kirshna A. Birusingh/Ed Alhey (Crescent)	SW	1,000	5-16-89
Seven Ponds Park (Sperry)	WS	200	5-16-89
*Henry Co. Sanitary Landfill (Mt. Pleasant)	SW	600	5-17-89
**Twelve Mile House (Bernard)*	WS	119	5-18-89
*Milo Chaffant, et. al. (Webster City)	SW	216	5-21-89
Nob Hill Supper Club (Decorah)	WS	230	6-01-89
Lawrence Payne (Ottumwa)	SW	425	6-19-89
South Win Golf Club (Calmar)	WS	100	6-26-89
Gilbert John Fjone (Swaledale)	SW	400	7-04-89
City of Graf	FP	400	7-04-89
Glenn C. Sevick (Mason City)	SW	400	7-17-89
Cattlemen's Steak & Provisions (Belmond)	WS	200	7-18-89
Wright County Area Landfill Authority (Dows)	SW	600	7-19-89
Dale Van Engen (Sibley)	AQ	600	8-07-89
Soo Line Railroad Company (Mason City)	HC	1,000	8-07-89
Cerro Gordo Co. Area SW Agency (Mason City)	SW	600	8-07-89
The Rose Garden (Maquoketa)	WS	200	8-08-89
Circle Hill Farms, Ltd. (Ellsworth)	SW	600	8-13-89
Floyd-Mitchell Solid Waste Agency (Charle City)	SW	600	8-13-89
AGP (formerly Agri Industries) (Mason City)	AQ	400	8-13-89
Northwestern States Portland Cement (Mason City)	AQ	1,000	8-13-89
Richard Kleindolph (Muscatine)	SW	500	8-17-89
Rake Water Supply	WS	315	8-23-89
Cozy Cafe (Lucas)	WS	500	8-23-89
Valley View Estates #1 (Muscatine)	WS	215	8-26-89

*Referred to Attorney General

**On Payment Schedule

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Grain Processing Corp. (Muscatine)	AQ	500	8-26-89
Lyn-Den Heights Homeowners Assoc. (Iowa City)	WS	230	-----
Sylvan Acres (Janesville)	WS	215	-----
Robert Fisch (Manchester)	AQ	600	-----
Jeffrey Allen Miller (Shell Rock)	1,000	-----	1A

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
AMOCO Oil Co. (Des Moines)	UT	1,000
Iowa City Regency MHP	WW	1,000
Thomas E. Lennon (Barnum)	FP	700
Great Rivers Coop (Atavia)	HC	1,000
1st Iowa State Bank (Albia)	SW	1,000
Stan Moser (Hudson)	SW	250
Cloyd Foland (Decatur)	FP	800
Land O' Lakes, Inc. (Ellsworth)	WW	1,000
City of Marcus	WS	1,000
Cindi's Chanti (Elgin)	WS	560
Superior-Ideal, Inc. (Oskaloosa)	WW	1,000
Howard Gross (West Union)	FP	800
Arthur Pape (West Union)	FP	800
IBP, Inc. (Columbus Junction)	WW	600
William C. Augustine (Rose Hill)	FP	1,000
Fred's 66 (Davenport)	HC	1,000
King's Terrace Mobile Home Court (Ames)	WW	1,000
King's Terrace Mobile Home Court (Ames)	WS	315
Premium Standard Farms, Inc. (Boone Co.)	WW/AQ	700
Mitchell Boars & Gilts (Madison Co.)	WW/FP	1,000
City of Des Moines	WW	1,000
Des Moines Metro Solid Waste Agency	SW	1,000
Amoco Oil Co. (West Des Moines)	UT	1,000
City of Sidney	WS	200
Paul Klorberdanz d/b/a The Mart (Danville)	UT	1,000

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Bremer Utilities (Bremer)	WS	50
Lonnings Landing (Dorchester)	WS	100
Dalluge Turkey Farm (Grafton)	AQ/SW	300
Lake Macbride Golf Course (Solon)	WS	50
Sutliff Store and Tavern (Lisbon)	WS	50
Ottosen Water Supply	WS	100
Tonja Mobile Home Park (Council Bluffs)	WS	100
Aubrey Dean Lisle (Council Bluffs)	SW	300
NorOats, Inc. (St. Ansgar)	AQ	400
Super Bowl (Atlantic)	WS	215
Iowa City Sanitary Landfill	SW	600
	TOTAL	\$2,265

*Referred to Attorney General

**On Payment Schedule

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DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
July, 1989

Name, Location and Region Number	How or Updated	Program	Alleged Violation	DNR Action	Status	Date
					Referred	12/16/87
					EPA suit filed	2/26/87
					State intervention	3/05/87
					Motion to dismiss granted/denied	2/26/88
					Filed interlocutory appeal	3/11/88
					Argued in circuit court	11/14/88
					Decision in favor of govt.	4/26/89
Aldex Corporation Council Bluffs (4)		Hazardous Waste	Release of Hazardous Substances	Referred to Attorney General		
Amoco Oil Co. Stuart (4)	New	Underground Tank	Prohibited Discharge Failure to Report Hazardous Condition	Referred to Attorney General	Referred	6/21/89
ASPRO, Inc. Waterloo (1)		Air Quality	Excess Emissions	Order	Referred	2/16/88
Bicusingham, Kirsbaum A. Crescent (4)	New	Solid Waste	Open Dumping	Order/Penalty	Referred	6/21/89
					Referred	2/20/87
					Default Judgment \$7500	6/22/87
					Second Lawsuit Filed	8/01/88
					Consent Decree	8/23/88
					Filed New Case	11/01/88
Research and Bell, Inc. Des Moines (6)		Solid Waste	Open Dumping	Order		
Clinton Pallet Co. Clinton (6)	New	Solid Waste	Open Dumping	Referred to Attorney General	Referred	6/21/89
Cooper, Kenneth/Hunter Oil Winburn (3)		Storage Tank	Spill Cleanup	Order	Cooper Referred Hunter Referred	10/27/87 8/17/88
					Referred	6/22/88
					Suit Filed	8/11/88
					Default Judgment	4/21/89
Davis, Richard & Sonia (5)		Solid Waste	Open Unpermitted Dumping	Referred to Attorney General		
Eagle Wrecking Co. Pottawattamie Co. (4)	New	Solid Waste	Open Dumping	Order/Penalty	Referred	4/21/89
Ellsworth, City of (2)		Wastewater	Discharge Limits	Order	Referred	4/18/89
Henry Co. SLP Commission St. Pleasant (4)	New	Solid Waste	Cover Violations	Order/Penalty	Referred	6/21/89
Hilltop Feeders (Jorgensen) Winnebago (1)		Air Quality	Operation Without Permit	Order	Referred Suit Filed Discovery Proceeding	12/15/87 3/24/88
IBP, Inc. (Langensfeld) Denison (4)		Wastewater	Prohibited Discharge	Order	Referred	11/17/87
Jerry Jansen Kellona (5)		Fish Kill	Prohibited Discharge	Referred to Attorney General	Referred Criminal Info. Filed Not Guilty Plea	10/20/88 3/20/89 3/27/89
Kinsinger, Vernon Kellona (1)		Solid Waste Air Quality	Open Dumping Open Burning	Order/Penalty	Referred Administrative Penalty Paid	1/24/89 2/23/89
Leamer, Delbert; JDM Ind. Pleasant Valley (6)		Solid Waste	Open Dumping	Order/Penalty	Referred Suit Filed	11/17/87 3/13/88
McCabe's Supper Club Surrey Oak (1)	Updated	Drinking Water	Monitoring/Reporting Bacteria & Nitrate	Order/Penalty	Referred Suit Filed Default Judgment	1/24/89 3/30/89 6/13/89
McGregor, City of (1)		Wastewater	HIP	Order	Referred	4/18/89
Ottumwa - Wapello County Sanitary Landfill Commission (6)		Solid Waste	Operation Violations	Referred to Attorney General	Referred	3/22/89
Parr Manufacturing, Inc.		Wastewater	Prohibited Discharge	Order	Referred	2/23/89
					Referred	8/17/88
					Suit Filed	12/30/88
					Default Judgment	3/05/89
Renslow, Donald Grand Junction (4)		Underground Tank	Failure to Monitor	Order		
Rumley, Austin and Durrell, Leon (5)	Updated	Flood Plain	Construction Without Permit	Order/Penalty	Referred Case Filed	5/22/89 6/19/89
Shelter Shield Buffalo Center (6)		Air Quality	Excess Emissions; Construction w/o permit	Order/Penalty	Referred Suit Filed Default Judgment \$7,500	2/20/87 6/30/87 12/22/87
63-180 Truckstop Pocahontas Co. (5)	Updated	Wastewater	Monitoring/Reporting, Discharge Limitations, Operational violations	Order/Penalty	Referred Suit Filed Consent Decree	8/17/88 11/22/88 6/13/89
Touchdown Co., et. al., Webster City (2)	New	Underground Tank	Prohibited Discharge Failure to Report Hazardous Condition	Referred to Attorney General	Referred	6/21/89
Turner, Ken St. Madison (6)	New	Solid Waste	Open Dumping	Referred to Attorney General	Referred	6/21/89

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DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS July, 1989

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
University Park, City of (3)		Wastewater	NIP	Order/Penalty	Referred Suit Filed	9/28/88 11/15/88
					Referred Suit Filed Trial Set	3/16/87 5/13/87 5/13/88
Waterhouse, James & Berna Washington County (6)		Flood Plain	Channel Change	Referred to Attorney General	Summary Judgment Granted the State	9/30/88
Woe Willy's Quasqueton (1)		Drinking Water	Monitoring/Reporting Bacteria & Nitrate	Order/Penalty	Referred	3/21/89
Wilton Steel Processing (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	5/17/88
Winnipeg Industries Forest City (2)	New	Air Quality	Failure to Obtain Permit	Referred to Attorney General	Referred	6/21/89
					Referred Consent Decree Contempt Finding Contempt Finding Contempt Finding Compliance Date	11/24/84 4/25/85 7/08/85 9/25/86 8/24/87 11/14/88 7/01/89
Wolleson, Robert C. Buena Vista and Cherokee Counties (3)		Wastewater	Prohibited Discharge	Order		
Woolstock, City of		Wastewater	Monitoring; effluent violations	Order/Penalty	Referred	2/23/89
Yocum, Max Johnson (6)	Updated	Flood Plain	Prohibited Construction	Defending Referred to Attorney General	Suit Filed Referred Counter Claim Filed	12/18/84 7/12/85 10/93
					Trial Held Judgment for Department Court of Appeals Affirmed Judgment Further Review Denied Contempt Hearing Scheduled	6/16/87 8/18/87 11/29/88 2/06/89 7/14/89

DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES July, 1989

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Administrative Order	WW	Landa	Hearing continued.
6-12-86	ADM - Clinton	Administrative Order	Air	Landa	Hearing continued.
12-03-86	City of Waukeg	Administrative Order	WS	Hansen	Amended Admin. Order issued.
5-12-87	Iowa City Regency MHP	Administrative Order	WW	Hansen	Hearing held 11-03-87.
6-11-87	Thomas Lennon	Administrative Order	FP	Clark	Appealed to District Court.
8-10-87	Great Rivers Co-op	Administrative Order	HC	Landa	Clean-up completed. Final report requested.
1-15-88	First Iowa State Bank	Administrative Order	SW	Kennedy	Continued. Settlement pending.
1-22-88	ISF, Fort Dodge	NPDES Permit	WW	Hansen	Negotiating before filing.
2-04-88	Bozwardale Heights, Woodsman; Westwood Hills	Administrative Order	SW	Landa	Continued pending resolution. Settlement discussions.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Landa	Phase II to be submitted.
3-01-88	Cloyd Poland	Administrative Order	FP	Clark	Final decision appealed 12-22-88.
4-13-88	Land O'Lakes, Inc.	Administrative Order	WW	Murphy	Negotiating before filing.
5-16-88	Marcus, City of	Administrative Order	WS	Landa	Settlement proposed.
6-22-88	Cindi's Chanti	Administrative Order	WS	Murphy	Negotiating before filing.
7-01-88	Superior Ideal, Inc.	Administrative Order	WW	Hansen	Hearing continued pending settlement discussions.
7-25-88	Nishna Sanitary Service, Inc.	Permit Conditions	SW	Landa	Hearing continued. Settlement proposed.
7-25-88	Aspro, Inc.	Operation Permit	WW	Landa	Compliance inspection scheduled.
7-25-88	The R.J.S. Enterprises Corp. and Ralph J. McJbs	Administrative Order	AQ	Landa	Appeal dismissed.
8-03-88	Hardin County	Permit Conditions	SW	Landa	Hearing continued. Settlement proposed.
9-27-88	City of Woden	Permit Condition	WS	Hansen	Hearing set for 7-13-89.
9-28-88	Deere & Company	SWA Denial	SW	Landa	Settlement proposed.
10-03-88	A. Cross/H. Page	Administrative Order	FP	Clark	Negotiating before filing.

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DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES July, 1989

DATE	NAME OF CASE	ACTION (APPEAL)	PROGRAM	ASSIGNED TO	STATUS
10-03-88	ISF, Columbus Junction	Administrative Order	WW	Clark	Hearing continued.
10-20-88	Worth Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	HC	Landa	Hearing continued. Compliance initiated.
11-14-88	William C. Augustine	Administrative Order	FP	Clark	Negotiating before filing.
11-22-88	Lake Shore Drive, Inc.	Administrative Order	FP	Clark	Hearing set for 7-25-89.
12-02-88	Edward Cain	Permit Denial	FP	Clark	Hearing set for 9/27/89.
12-02-88	Davis Co. Board of Supervisors	Administrative Order	AQ	Landa	Hearing continued. Request for documents.
12-05-88	Larry Dittmer	Administrative Order	AQ	Landa	Settlement pending; compliance documented.
1-25-89	Amoco Oil Co.	Administrative Order	UT	Landa	Settlement proposed. Clean up progressing.
1-26-89	City of Ogden	Administrative Order	WW	Murphy	Settlement proposal 3-17-89.
1-30-89	City of New Market	Permit Revision	WS	Hansen	Negotiating before filing.
2-10-89	Northwestern States Portland Cement Company	Site Registry	HW	Landa	Hearing continued.
2-10-89	Baier/Hansheim/Hoyer	Site Registry	HW	Landa	Hearing scheduled for 7-10-89.
2-13-89	King's Terrace Mobile Home Court	Administrative Order	WW	Murphy	Negotiating before filing.
2-13-89	King's Terrace Mobile Home Court	Administrative Order	WS	Murphy	Negotiating before filing.
2-16-89	John Deere Co.	Site Registry	HW	Landa	Sent to DIA.
2-16-89	Premium Standard Farms	Administrative Order	WW/AQ	Murphy	Hearing continued.
2-23-89	Lakewood Benefited Sanitary District	NPDES Permit	WW	Hansen	Appeal dismissed by appellant; closed.
3-09-89	Mitchell Boars and Gilts	Administrative Order	WW/FP	Murphy	Proposed decision 6-9-89.
3-14-89	Barude R. Hoover and Bill Edwards	Flood Plain Permit Issuance	FP	Clark	Negotiating before filing.
3-27-89	Victor Fisher	Administrative Order	AQ	Kennedy	Settled.
3-27-89	Kenneth Forburger	Administrative Order	AQ	Kennedy	Settled.
4-13-89	Finlen Landfill	Permit Revocation	SW	Kennedy	Hearing set for 7-19-89.
4-17-89	City of Des Moines	Administrative Order	WW	Murphy	Hearing set for 7-19-89.
4-18-89	Star Coal Company	SWA Denial	SW	Landa	Hearing continued.
4-20-89	Des Moines Metro SLF	Administrative Order	SW	Kennedy	Continued.
5-01-89	Amoco Oil Company	Administrative Order	UT	Landa	Negotiating before filing.
5-31-89	Sidney Water Supply	Administrative Order	WS	Hansen	Negotiating before filing.
6-07-89	Paul Klobardanz, d/b/a The Mart	Administrative Order	UT	Landa	Sent to DIA.
6-07-89	John Deere Ottumwa Works	Site Registry	HC	Landa	Sent to DIA.
6-08-89	Shaver Road Investments	Site Registry	HW	Landa	Sent to DIA.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Landa	Sent to DIA.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Landa	Sent to DIA.
6-08-89	John Deere Dubuque Works	Site Registry	HW	Landa	Sent to DIA.
6-08-89	Chicago & NW Transportation Co.	Administrative Order	HC	Landa	Sent to DIA.
6-08-89	Jay Winders	Permit Denial	FP	Clark	Negotiating before filing.
6-19-89	Grand Mound, City of	Administrative Order	WW	Hansen	Negotiating before filing.
6-22-89	Chicago & Northwestern Transporta- tion Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	HC	Landa	Sent to DIA.
6-23-89	Iowa Dept. of Transportation	Site Registry	HC	Landa	Sent to DIA.

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Mr. Combs distributed a copy of the Futures Agenda and Mission Statement. He explained that the idea of the futures agenda process and concept is to do some strategic planning for the State of Iowa. This is accomplished with each state department working in clusters of two or three departments to determine issues most critical to their cluster. The Department of Natural Resources is clustered with the departments of Transportation, Economic Development, Employment Services, and Commerce. Each cluster develops a cluster futures agenda and it is presented to the Governor. The Governor then uses the material, along with additional information, to develop a futures agenda for the State of Iowa. This is incorporated as part of the budget process and the budget must match the futures agenda. Mr. Combs further explained the details of the futures agenda. He added that the department will try to include any comments the Commission may have.

Nancylee Siebenmann commented that in the environmental protection programs there is nothing that speaks to human health. She is concerned that there should be something to state that we want to preserve and enhance the health and well being of Iowans. She also noted that the Mission Statement does not address assisting people to meet the kinds of quality that we are looking for.

Clark Yeager was concerned that on page 13, the Environmental Protection Programs were listed last as if these programs were least important.

Discussion followed regarding various issues of the futures agenda.

This was an informational item; no action was required.

GROUNDWATER CLEANUP GUIDELINES

Richard Hartsuck pointed out that it was decided yesterday the Commission would discuss the groundwater cleanup standards again today and that he is ready to take action on it.

Motion was made by Richard Hartsuck to have staff develop amendments to Chapter 133, General Guidelines for Determining Clean Up Actions by Responsible Parties, to substitute EPA issued MCL's if available, if MCL's not available to use HAL's, and if neither of those are available to use NRL's at the "one times ten to the minus five" level. Seconded by Clark Yeager.

Commissioner Hartsuck stated that the Commission has to make a multitude of decisions in many different areas and it is his feeling that there has to be some consistency in basic, underlying philosophy, otherwise it would be a hodge-podge of

This was an informational item; no action was required.

APPOINTMENT - DR. ANDREW KLEIN (Monsanto)

Dr. Andrew Klein, Monsanto, addressed the Commission stating that his company is concerned about protection of the groundwater. He stated that they support responsible and responsive legislation and regulation to prevent and remediate groundwater contamination. He recommended the use of MCL federal drinking water standards as a cleanup up standard. He noted that health advisories are not standards, they are informal guidance, are subject to change and are not subject to rigorous review. He suggested several changes, as far as action level, to the proposed Groundwater Cleanup Guidelines rule.

Discussion followed regarding point source contamination and nonpoint source contamination.

APPOINTMENT - DR. PETER ISACSON

Dr. Peter Isacson presented biographical background information and explained his development of interest in public health. Dr. Isacson has, since 1975, been principal investigator for the Statewide Cancer Registry. He covered potential health hazards in setting standards. Also, he discussed standard setting with experimental animals and how much can be applied to humans. Dr. Isacson explained the development of cancer in humans and how a cell could be mutated by chemicals, how carcinogens are changed by the body, and the repair mechanisms and protective mechanisms produced by the body. Also discussed were health risks and population, and individual susceptibility to carcinogens. Dr. Isacson noted that it has become too complicated to really compare any kind of experimental lab analysis of animals with the human experiences, and he expanded on details of same. He stated that safety factors are built in for suggested health risk levels but they are not based on anything. Dr. Isacson stated that he has no doubt, that from the sheer standpoint of health alone, the most stringent standard possible should be used. He stated that one cannot project a single precise estimate of human risk.

Richard Hartsuck asked Dr. Isacson what he thinks about MCL's in controlling drinking water.

Dr. Isacson replied that he is present to defend the position supported by the DNR.

A lengthy discussion followed regarding cleanup guidelines; levels of cleanup pertaining to MCL, HAL and NRL's;

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inconsistency in cleanup levels for point source contamination, nonpoint source contamination and drinking water; and contamination in Lake Rathbun.

The Commission decided to further discuss this item on Tuesday and possibly act on it at that time.

PUBLIC PARTICIPATION

Chairperson Mohr announced public participation at 3:15 p.m.; no one requested to speak.

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4).

Lehigh Clay Products, et al. (Lehigh) - hazardous condition
SEMCO (Washington) - solid waste
Stan Moser (Hudson) - solid waste
Seven Ponds Park (Sperry) - penalty collection
Nob Hill Supper Club (Decorah) - penalty collection

SEMCO (Washington)

Mike Murphy stated that referral is being sought for two purposes. The first is for enforcement of a prior Administrative Order and citation for other operating problems, and the other is for collection of a late fee for the tonnage fees on solid waste. He expanded on the details and history of this case. Mr. Murphy noted that the statute provides that a 15% late penalty shall be paid for failure to pay tonnage fees. He stated that the form advising of the penalty was mailed to SEMCO in late October and there were internal difficulties at SEMCO, as the right people did not get the form. Referral is asked for enforcement of the injunction and payment of penalties.

APPOINTMENT - BOB HUBER

Bob Huber, County Engineer for Washington County and Treasurer of SEMCO, addressed the Commission explaining that since he found out there were two problems they have taken care of the one concerning cover. He stated that any penalties in relation to how the landfill is operated are paid by the operator, not by SEMCO.

Mr. Huber stated that, in regards to the late tonnage fee, he called the department in late September because he had not received the form he uses for paying his fees. He related that the person he spoke with at DNR told him the form was not ready yet and it would be sent to him later. He added that he never thought about it again until after the first of the year when the department phoned and asked him why he hadn't paid. It was then discovered that the form was sent to Steve Dodd. Mr. Huber stated that Mr. Dodd had left the company and moved to Nebraska in mid-1988, and he does not know what happened to the form. Mr. Huber related that he mailed the payment as soon as he received the form.

Rozanne King asked why the form was mailed to Steve Dodd.

Mr. Murphy stated that, in 1984, the permit application listed Mr. Huber as the responsible person, then when the 1987 permit application was received it listed Steve Dodd as the responsible person, therefore the department changed its mailing labels to Mr. Dodd.

Discussion followed regarding the assessment of the late payment and the intent of the rule covering same.

Nancylee Siebenmann stated that she feels the penalty is entirely out of line in terms of the total situation. She asked if the Commission has the opportunity to revise the referral.

Mr. Murphy explained options the Commission could take would be to decline to refer the case, to table it, or to make a recommendation.

Motion was made by Nancylee Siebenmann to go into closed session pursuant to Iowa Code Section 21.5(c) to discuss strategy with counsel in matters that are in actual or potential litigation where its disclosure would be likely to prejudice the position of the governmental body in that litigation. Seconded by Clark Yeager.

Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Ehm, Hartsuck, King, Prah, Priebe, Siebenmann, Yeager, and Mohr. Motion carried 8 to 0.

Motion was made by Margaret Prah1 to adjourn closed session and return to open session. Seconded by Rozanne King. Motion carried unanimously.

Motion was made by Margaret Prah1 that the matter for request of a court order require compliance, and the penalty for failure to comply be referred to the Attorney General. In regards to penalties for the subsequent violations, that the Attorney General assess fines only for the 1989 violations. And in view of the mitigating circumstances on the tonnage fee penalty, that the Commission table the matter for a month and request staff to try to negotiate a lower charge. Seconded by Rozanne King. Motion carried unanimously.

Lehigh Clay Products

Mr. Murphy stated that referral is being asked for violations of an Administrative Consent Order regarding required cleanup actions at a site that has been contaminated with diesel fuel and is discharging fuel into Crooked Creek. Mr. Murphy expanded on the details of the Consent Order. Referral is asked for enforcement of the Consent Order and collection of civil penalty for the violations.

Mark Landa, Legal Services Division, displayed an overhead picture showing the plant, the tank area, and the berm around the tank. He pointed out the area where leaking occurred from a pipe and contaminated surrounding soils. Sampling indicates that the diesel fuel continues to be in the vicinity of the plant, is being released into Crooked Creek, and is moving in the groundwater.

Mr. Murphy called attention to an error on page five of the litigation report stating that the monitoring results for monitoring well #3 should show benzene-23 and xylene-25.

APPOINTMENT - DON MCHOSE

Don McHose, co-owner of Lehigh Clay Products Company, addressed the Commission stating that a year and a half ago he wrote each of the EPC Commissioners and asked what a person could do to clean up something when all of his financial resources were invested in a business. He related that he did not receive a single answer, and he did not receive any help from a DNR representative when he requested it. Mr. McHose stated that he has installed an oil boom and monitoring wells at a cost of \$12,000, and his company has no money to do all of the required tests. He stated that he feels the state has to be a little bit compassionate in what they are doing to help a person who gets into a situation such as this. He reiterated that he has done everything that he can do financially. Mr. McHose commented that

the department should go after the Dickey Company as they are the ones who caused the problem. In conclusion, Mr. McHose made a plea to the Commission to grant him some time to earn additional money so that he can buy equipment to do the job himself. He added that he could have the work completed in six months.

Clark Yeager asked about the standing of Dickey Company in this situation.

Mr. Landa stated that Dickey Company owned the property until January 29, 1987. The department first became aware of the problem in November, 1986 when Mr. McHose contacted the department about his and Mr. Mills' interest in purchasing the Lehigh Clay Products site. Mr. Landa stated that the department identified two disposal sites and a sheen on Crooked Creek as potential problems with this property. The department notified Mr. McHose that it was in his best interest, prior to purchasing the property, to have Dickey Company conduct a full scale site investigation so they would know exactly what they were purchasing. After the analytical results from the department's investigation were received, the department notified Dickey of what was found. Dick Mills was also notified that the site had a diesel spill. Dickey and Lehigh Clay Products Company subsequently entered into a sales agreement in which Dickey provided Lehigh Clay Products Company \$15,000 for cleanup.

Mr. Landa stated that the department would not have recourse with Dickey as Lehigh Clay Products Company assumed the responsibility for cleanup, but Lehigh Clay Products Company may have some legal recourse against Dickey.

Discussion followed regarding possible recourse with Dickey Company, costs for cleanup, and options available to the Commission in this case.

Mr. McHose reiterated that if he is allowed a little time to get the needed equipment he can do the work within six months.

Motion was made by Richard Hartsuck to table this referral until the September meeting. Seconded by Margaret Prahl.

Margaret Prahl offered an amendment to require Mr. McHose to give Mark Landa a progress report prior to the August meeting. Richard Hartsuck concurred with the amendment. Motion carried unanimously.

Stan Moser

Mike Murphy briefed the Commission on the history of this case. He noted that Mr. Moser appealed a previous Administrative Order which the Commission upheld, and he subsequently appealed to District Court. The department recently received a favorable ruling from District Court and Mr. Moser has not appealed it.

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Referral is being sought to enforce the Administrative Order and to collect penalties for recent dumping violations.

Motion was made by Margaret Prah1 for referral to the Attorney General's Office. Seconded by Nancylee Siebenmann. Motion carried unanimously.

Seven Ponds Park

Mr. Murphy informed the Commission that the penalty has been paid in this case, therefore the referral is withdrawn.

Nob Hill Supper Club

Mr. Murphy informed the Commission that the penalty has been paid in this case, therefore the referral is withdrawn.

City of Ogden

Mr. Murphy briefed the Commission on the history of this case and stated that referral is recommended to formally enter into a consent decree.

Motion was made by Margaret Prah1 for referral to the Attorney General's Office. Seconded by Richard Hartsuck. Motion carried unanimously.

WARREN STRAUSS (Groundwater Cleanup Guidelines Rules)

Warren Strauss, Monsanto, stated that it was a pleasure listening to Dr. Peter Isacson. He mentioned that some of the Commissioners indicated that the MCL and HAL issues are very complex, but he assured that immunology and many of the things eluded to are equally complex. Mr. Strauss revisited the pros and cons of HAL's and MCL's from a technical standpoint. He stated that the bottom line boils down to the fact that, recognizing that the government has expended vast resources to try to deduce what it believes is reasonable, he and his company believe that MCL's should be sufficient for cleanup.

Margaret Prah1 asked how HAL's are set and by whom are they set.

James Combs responded that HAL's are set through the same process that MCL's are set, and it is done by a scientific group put together by EPA. HAL's are not adopted as federal regulations, they are announced and published with no opportunity for comment. At the MCL level there is opportunity for state agencies and private interest groups to comment on that rulemaking activity.

Richard Hartsuck commented that the Commission should incorporate economic considerations when setting standards for cleanup.

Gary Priebe stated that it is not feasible or possible to clean groundwater to zero pristene.

Nancylee Siebenmann commented that it would be preferable to spend the dollar on prevention rather than cure. She added that if cleanup to the HAL is conceivable and financially possible, that is where the Commission's aim should be.

RECESS

Chairperson Mohr recessed the meeting at 5:50 p.m., Monday, July 17, 1989.

MEETING RECONVENES 8:30 A.M., TUESDAY, JULY 18, 1989

NOTICE OF INTENDED ACTION--CHAPTERS 60, 61, & 62, WATER QUALITY STANDARDS

Darrell McAllister, Bureau Chief, Surface & Groundwater Protection Bureau, presented the following item.

The Commission is requested to approve the Notice of Intended Action for the proposed revisions to the Water Quality Standards, Chapter 567-60, 61, and 62. The proposed changes have been developed in accordance with EPA guidance and comments and according to needed changes identified by staff.

Copies of the proposal have been provided to a 12 member technical advisory committee made up of representatives from the university, business, environmental, and local, state, and federal governmental community. A meeting of the technical advisory committee was held on June 9, 1989 at which time the proposed changes were presented and comments made. A second meeting is scheduled for July 13, 1989 to further discuss the proposed revisions and to receive additional comments.

(Notice of Intended Action is shown on the following 14 pages)

ENVIRONMENTAL PROTECTION COMMISSION
Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission for the Department of Natural Resources gives Notice of Intended Action to amend Chapter 60, "Scope of Title-Definitions- Forms-Rules of Practice," Chapter 61, "Water Quality Standards," and Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," Iowa Administrative Code.

As required by the U.S. Environmental Protection Agency (EPA), water quality standards are periodically reviewed for technical accuracy, incorporation of current scientific data and consistency with the EPA guidelines and requirements. A Notice of Intended Action was published on October 19, 1988 (ARC 9345) reflecting proposed changes from this review. Due to numerous comments on the original proposal, additional amendments were required. The Department is proposing the following amendments in view of the review and comments received.

New definitions are added to rule 60.2 for water contact recreational canoeing, mixing zone, zone of initial dilution, seven-day, ten-year low stream flow, minimum flow, crossover point, intermittent watercourses, losing stream, acute toxicity, and chronic toxicity. The definition for secondary contact is amended to explain that secondary contact includes users that do not enter the water body while on a boating activity.

In subrule 61.2(1), an additional resource document from EPA is added as a reference for application of narrative standards. Subrule 61.2(2)"b" is amended to delete the specific list of 49 high quality waters and extends protection to all water bodies where the water quality significantly exceeds the levels necessary to protect existing uses. This amendment was requested by EPA and is a minimum requirement of the federal regulations.

Subrule 61.2(2)"c" is amended to conform to EPA regulations. EPA regulations establish three tiers of waters. The highest classification pertains to water bodies where no degradation at all is allowed and where more stringent standards than those applied to other waters may be applied. Presently, West Lake Okoboji falls within this class. The format of this subrule is changed to allow for the addition of other water bodies that may fall within this category. Subrule 61.2(2)"d" is amended to specifically cite a rule reference. Subrule 61.2(2)"f" is amended to delete the specific list of water bodies protected and to refer to the waters listed in subrule 61.3(5)"e".

Subrule 61.2(4) is rescinded and replaced by a new subrule. As recommended by the EPA, this subrule attempts to better define the term mixing zones. Additionally, the subrule sets forth more detailed procedures for calculating the dimensions of the mixing zone and zone of initial dilution. Reference to the seven-day, ten-year low flow, newly defined in 60.2, is made in determining the width and length of the mixing zone. A percentage of the seven-day, ten-year low flow is also referenced as one of several criteria considered when determining the stream flow to be used to establish effluent limits to assure compliance with the mixing zone criteria.

Subrule 61.2(5) concerning the implementation strategy has been amended. The revised rule requires the numerical criteria in the water quality standards to be met when the flow of the receiving stream meets or exceeds the seven-day, ten-year low flow. The subrule continues to allow for waivers of the low flow requirement and establishment of a minimum flow with the added condition that the continued maintenance of beneficial uses of the receiving

waters will be assured. The amended further provides that toxic conditions will not be allowed to occur in the receiving waters outside the mixing zone. This subrule is proposed following EPA guidelines.

Subrule 61.2(5)"c" has been revised. The word "standards" has been replaced by the word "criteria" throughout this subrule. The revision provides that evaluations for site-specific criteria must be conducted using scientifically accepted procedures approved by the Department. EPA must review and approve site-specific criteria.

Existing subrule 61.3(1) is renumbered as 61.3(2) and replaced by new subrule 61.3(1) which pertains to surface water classification. This classification defines general use and designated use segments. Definitions are included for the following designated uses: primary contact recreation, Class A; cold-water aquatic life, Class B(CW); high quality, Class HQ; high quality resource water, Class HQR; significant resource warm-water, Class B(WW); limited resource warmwater, Class B(LR); lakes and wetlands, Class B(LW); and drinking water supply, Class C. This subrule results from EPA recommendations.

Subrule 61.3(1) is renumbered as 61.3(2) and revised to reflect the definitions added for general use, designated use, and acutely toxic. This subrule is revised to specifically prohibit new wastewater discharges on water courses that directly or indirectly enter sinkholes or losing stream segments.

Subrules 61.3(2) to 61.3(4) are rescinded and replaced by subrule 61.3(3). This subrule pertains to specific water quality criteria for Class A, Class B and Class C waters. The subrule includes tables setting forth criteria for chemical constituents, dissolving oxygen, and ammonia for the various classifications of water bodies. Fourteen new toxics were added to the table of chemical constituents. New pH and temperature variables are used for establishing ammonia levels for various water bodies. This subrule follows U.S. EPA guidelines.

Subrule 62.8(2) is revised to include a procedure to determine an appropriate NPDES permit effluent limitation using the calculated wasteload allocation. The EPA guidance documents provide the basic framework to establish the permit limits which would statistically assure not exceeding the calculated wasteload allocation necessary to meet water quality standards. Presently, the wasteload allocation for a discharging facility is directly listed as the maximum permit limit.

The referenced document in subrule 61.2(5), "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, will be modified to reflect these proposed rule changes. The document changes should be completed near the projected adoption date for these water quality rule changes. Formal rule making procedures including public hearings will be completed independently for the changes to the referenced document.

Any interested person may submit written suggestions or comments on the proposed rule changes through September 16, 1989. Such written materials should be directed to Ralph Turkle, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319-0034. Persons who have questions may contact Ralph Turkle at (515)281-7025. Persons are also invited to present oral or written comments at public hearings which will be held on August 29, 1989 at 1:00 p.m. in the Opera House auditorium at Elkader; on August 29, 1989 at 7:00 p.m. in the National Guard Armory in Washington, Iowa; on August 30, 1989 at 1:00 p.m. in the City Hall Chambers at Mason City, Iowa; on August 31, 1989 at 1:00 p.m. in the Wallace Building fifth floor conference room in Des Moines, Iowa; on September 6, 1989 at 1:00 p.m. in the Community Center in Cherokee, Iowa; and on September 6,

1989 at 7:00 p.m. in the Atlantic Municipal Utilities meeting room in Atlantic, Iowa.

These rules may have an impact upon small businesses.

Copies of these proposed rules may be obtained from Sarah Detmer, Records Center, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part I.

ITEM 1. Amend rule 60.2 (455B) by revising the definition for "secondary contact" to read as follows:

"Secondary contact" means any recreational or other water use in which contact with the water is either incidental or accidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, commercial and recreational boating and any limited contact incidental to shoreline activity. This would include users who do not swim or float in the waterbody while on a boating activity.

Further amend rule 60.2 (455B) by adding the following new definitions in alphabetical order:

"Acute toxicity" means that level of pollutants which would rapidly induce a severe and unacceptable impact on organisms.

"Chronic toxicity" means that level of pollutants which would, over long durations or recurring exposure, cause a continuous, adverse or unacceptable response in organisms.

"Crossover point" means that location in a river or stream in which the flow shifts from being principally along one bank to the opposite bank. This crossover point usually occurs within two curves or an S-shaped curve of a water course.

"Seven-day, ten-year low stream flow" means the lowest average stream flow which would statistically occur for seven consecutive days once every ten years.

"Intermittent watercourses" means watercourses which contain flow associated with rainfall/runoff events and which periodically go dry even in pooled areas.

"Losing streams" means streams which lose 30 percent or more of their flow during the seven-day, ten-year low stream flow periods to cracks and crevices of rock formations, sand and gravel deposits, or sinkholes in the streambed.

"Minimum flow" means that established stream flow in lieu of the seven-day, ten-year low stream flow to which the provisions of 567--Chapter 61 apply.

"Mixing zone" means a delineated portion of a stream or river in which wastewater discharges will be allowed to combine and disperse into the water body. The chronic criteria of subrule 61.3(3) will apply at the boundary of this zone.

"Water contact recreational canoeing" means the type of activities associated with canoeing outings in which primary contact with the water does occur. This would include users who swim or float in the water body while on a canoeing outing.

"Zone of initial dilution" means a delineated portion of a mixing zone in which wastewater discharges will be allowed to rapidly combine and begin dispersing into the water body. The acute criteria of subrule 61.3(3) will apply at the boundary of this zone.

ITEM 2. Amend subrule 61.2(1), third unnumbered paragraph, as follows:

Certain of the criteria are in narrative form without numeric limitations. In applying such narrative standards, decisions will be based on the

U.S. Environmental Protection Agency's methodology described in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," 1985 and on the rationale contained in "Quality Criteria for Water," published by the U.S. Environmental Protection Agency (1977), as updated by supplemental Section 304 (of the Act) Ambient Water Quality Criteria documents.

ITEM 3. Amend subrule 61.2(2), paragraph "b," by deleting the list of 49 water bodies entirely and by amending the first paragraph as follows:

b. Chemical integrity: Those existing high-quality waters; named below; For those water bodies where water quality significantly exceeds levels necessary to protect existing uses and the waters designated as high quality in subrule 61.3(5)"e", that water quality will be maintained at or above existing quality, except when;---after---full---satisfaction---of---the intergovernmental coordination and public participation provisions of the continuing-planned-process; it is determined by the Environmental Protection Commission after public hearing and after intergovernmental coordination and public participation provisions noted in the continuing planning process that there is need to allow a lower the chemical quality because of necessary and justifiable economic and or social development in the area. In-allowing-such degradation or lowered chemical quality; theThe state shall assure ensure adequate chemical quality to fully protect existing uses.

ITEM 4. Amend subrule 61.2(2), paragraph "c," as follows:

c. It is intended that rules defining facility design criteria; discharge limitations; and other restrictions will be adopted by the commission for specific application to antidegradation waters: --West Lake Okoboji is an outstanding Iowa lake; and standardsStandards and restrictions more stringent than those applied to other antidegradation waters may be applied by the commission to West Lake Okoboji those waters listed below when it is determined through-broadly-based-public-participation that such more stringent standards and restrictions are justified necessary to fully maintain water quality at existing levels.

West Lake Okoboji in Dickinson County.

ITEM 5. Amend subrule 61.2(2), paragraph "d," as follows:

d. The Mississippi River and the Missouri River do not meet existing-high quality-waters the criteria of 61.2(2)"c" but nevertheless constitute waters of exceptional state and national significance. Water quality management decisions regulatory-actions-affecting-them will be made in consideration of directed-toward-water-quality-improvement-commensurate-with the exceptional value of the resource.

ITEM 6. Amend subrule 61.2(2), paragraph "f," introductory paragraph, as follows and delete the list of 43 water bodies:

f. Physical and biological integrity: The waters designated as high-quality resource waters in subrule 61.3(5)"e" will receive protection of existing uses through maintaining water quality levels necessary to fully protect existing uses or improve water quality to levels necessary to meet the designated use criterion in Table 1, 2 and 3 and at preserving or enhancing the physical and biological integrity of these waters. Water--quality management-regulatory-actions-affecting-high-quality-resource-waters-listed below-will-be-directed-at-water-quality-improvement-commensurate-with-the exceptional-value-of-the-resource-and-at-preserving-and-enhancing-the-physical and-biological-integrity-of-these-waters: This involves the protection of such features of the water body as channel alignment, bed characteristics, water velocity, aquatic habitat, and the type, distribution and abundance of existing aquatic species.

ITEM 7. Rescind subrule 61.2(4) and insert the following in lieu thereof:

61.2(4) Regulatory mixing zones. Mixing zones are recognized as being necessary for the initial assimilation of point source discharges which have received the required degree of treatment or control. Mixing zones shall not be used for, or considered as, a substitute for minimum treatment technology required by subrule 61.2(3). The objective of establishing mixing zones is to provide a means of control over the placement and emission of point source discharges so as to minimize environmental impacts. Waters within a mixing zone shall meet the general water quality criteria of subrule 61.3(2). Waters at and beyond mixing zone boundaries shall meet all applicable standards and the chronic criteria of subrule 61.3(3) Table 1 and 3 for that particular water body or segment. A zone of initial dilution may be established within the mixing zone beyond which the applicable standards and the acute criteria of subrule 61.3(3) will be met. For waters designated under subrule 61.3(5), any parameter not included in Table 1, 2 and 3 of subrule 61.3(3), the chronic and acute criterion calculated following subrule 61.2(1), will be met at the mixing zone and zone of initial dilution boundaries respectively.

a. Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be defined on a site-specific basis. These rules are not intended to define each individual mixing zone, but will set maximum limits which will satisfy most biological, chemical, physical and radiological considerations in defining a particular mixing zone. Applications for operation permits under subrule 64.3(1) may be required to provide specific information related to the mixing zone characteristics below their outfall so that mixing zone boundaries can be determined.

b. The dimensions of the mixing zone and the zone of initial dilution will be calculated using the following factors:

(1) The width of a mixing zone may not exceed the following percentages of the stream width during the seven-day, ten-year low stream flow as measured at the point of discharge:

1. Twenty-five percent for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

2. Ten percent for the Mississippi and Missouri Rivers.

The stream width will be measured perpendicular to the basic direction of stream flow from the edge of water from one bank to the edge of water of the opposite bank. This measurement will include only the distance of continuous water surface. The width of side channels, cutoffs or other flowage ways will not be included as the stream width.

(2) The length of the mixing zone below the point of discharge shall be set by the most restrictive of the following:

1. A distance equivalent to the product of seven times the width of the stream during the seven-day, ten-year low flow for interior streams. For the Mississippi and Missouri Rivers, a distance equivalent to the product of seven times the width of the mixing zone.

2. The distance to the juncture of two perennial streams.

3. The distance to a public water supply intake.

4. The distance to the upstream limits of a heavily used recreational area.

5. The distance to the middle of a crossover point in a stream where the main current flows from one bank across to the opposite bank.

6. The distance to another mixing zone.

7. Not to exceed a distance of 2000 feet.

(3) The width and length of the zone of initial dilution may not exceed 10 percent of the width and length of the mixing zone.

c. The stream flow used in determining wasteload allocations to assure compliance with the chronic criteria of Table 1 and 3 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the following percentages of the seven-day, ten-year low stream flow as measured at the point of discharge:

(1) Twenty-five percent for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

(2) Ten percent for the Mississippi and Missouri Rivers.

The stream flow used in determining effluent limits to assure compliance with the acute criteria of Table 1 and 3 may not exceed 10 percent of the calculated flow associated with the mixing zone.

d. The following exceptions apply to the mixing zone requirements:

(1) No mixing zone or zone of initial dilution will be allowed for waters designated as lakes or wetlands.

(2) No zone of initial dilution will be allowed in waters designated as cold water.

e. Temperature changes within mixing zones established for heat dissipation will not exceed the temperature criteria in subrule 61.3(3)"b"(5).

f. The appropriateness of establishing a mixing zone where a substance discharged is bioaccumulative, persistent, carcinogenic, mutagenic, or teratogenic will be carefully evaluated. In such cases, effects such as potential groundwater contamination, sediment deposition, fish attraction, bioaccumulation in aquatic life, bioconcentration in the food chain, and known or predicted safe exposure levels shall be considered.

ITEM 8. Amend subrule 61.2(5), introductory paragraph, as follows:

61.2(5) Implementation strategy. Numerical criteria specified in theseThese water quality standards shall be met at-all-times when the flow of the receiving stream equals or exceeds the average-seven-day seven-day, ten-year low flow which-occurs-once-in-ten-years. Exceptions may be made for intermittent or low flow streams:--Where-intermittent-or-low-flow-streams-are classified as for-Glass-B-aquatic-life-protection significant resource warm waters or limited resource warm waters. For these waters, the department may waive the seven-day, ten-year low flow requirement and establish a minimum flow in lieu thereof. Such waiver shall be granted only when it has been determined that the aquatic resources of the receiving waters are of no significance at flows less than the established minimum, and that the continued maintenance of the beneficial uses of the receiving waters will be assured. In no event will toxic conditions be allowed to occur in the receiving waters outside of mixing zones established pursuant to subrule 61.2(4). The policy for granting waivers is described in the "Supporting Document for Iowa Water Quality Management Plans" (Iowa Department of Water, Air and Waste Management, Chapter IV, July 1976, as revised on October 16, 1984). (Copies are available upon request to the Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319-0034. Copy also on file with the Iowa Administrative Rules Coordinator.)

All minimum flows established under the provisions of this section will be published annually by the department.

ITEM 9. Amend subrule 61.2(5), paragraph "c," as follows:

c. Site-specific water quality standards criteria may be allowed in lieu of the water-quality-standards-referenced-in specific numerical criteria listed in Tables 1 and 3 of this chapter if adequate documentation is provided to show that site-specific the proposed criteria will protect all existing or

potential uses of the surface water. Site-specific water quality standards criteria may be appropriate where:

(1) The types of organisms differ significantly from those used in setting the statewide standards criteria, or;

(2) The chemical characteristics of the surface water such as pH, temperature, and hardness differ significantly from the characteristics of the water used in setting the statewide standard criteria.

Development of site-specific criteria shall include an evaluation of the chemical and biological characteristics of the water resource and an evaluation of the impact of the discharge. All evaluations for site-specific criteria modification must be coordinated through the department, and be conducted using scientifically accepted procedures approved by the department. Any site-specific criterion developed under the provisions of this subrule is subject to the review and approval of the U.S. Environmental Protection Agency. All criteria approved under the provisions of this subrule will be published periodically by the department. and-performed-with-prior-consent and -approval -of -the -department -using -scientifically -accepted -procedures- Guidelines for establishing site-specific water quality criteria can be found in "Water Quality Standards Handbook," published by the U.S. Environmental Protection Agency, December 1983.

ITEM 10. Renumber the existing subrule 61.3(1) as 61.3(2) and add the following language as subrule 61.3(1):

61.3(1) Surface water classification. All waters of the state are classified for protection of beneficial uses. These classified waters include general use segments and designated use segments.

a. General use segments. These are intermittent watercourses and those watercourses which typically flow only for short periods of time following precipitation in the immediate locality or as a result of discharges from wastewater treatment facilities, and whose channels are normally above the water table. These waters do not support a viable aquatic community of significance during low flow, and do not maintain pooled conditions during periods of no flow.

However, during periods when sufficient flow exists in the intermittent watercourses to support various uses, the general use segments are to be protected for livestock and wildlife watering, noncontact recreation, crop irrigation, and industrial, agricultural, domestic and other incidental water withdrawal uses. The aquatic life existing within these watercourses during elevated flows will be protected from acutely toxic conditions.

b. Designated use segments. These are water bodies which maintain flow throughout the year, or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community of significance.

Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Designated use segments include:

(1) Primary contact recreation (Class "A"). Waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risk of ingesting water in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

(2) Cold water aquatic life (Class "B(CW)"). Waters in which the temperature, flow, and other habitat characteristics are suitable for the maintenance of a wide variety of cold water species, including nonreproducing populations of trout and associated aquatic communities.

(3) High quality water (Class "HQ"). Waters with exceptionally better quality than the levels specified in Table 1, 2 and 3 and with exceptional recreational and ecological importance. Special protection is warranted to maintain the unusual, unique or outstanding physical, chemical, or biological characteristics which these waters possess.

(4) High quality resource water (Class "HQR"). Waters of substantial recreational or ecological significance which possess unusual, outstanding or unique physical, chemical, or biological characteristics which enhance the beneficial uses and warrant special protection.

(5) Significant resource warm water (Class "B(WW)"). Waters in which temperature, flow and other habitat characteristics are suitable for the maintenance of a wide variety of reproducing populations of warm water fish and associated aquatic communities, including sensitive species.

(6) Limited resource warm water (Class "B(LR)"). Waters in which flow or other physical characteristics limit the ability of the water body to maintain a balanced warm water community. Such waters support only populations composed of species able to survive and reproduce in a wide range of physical and chemical conditions, and are not generally harvested for human consumption.

(7) Lakes and wetlands (Class "B(LW)"). These are artificial and natural impoundments with hydraulic retention times and other physical and chemical characteristics suitable to maintain a balanced community normally associated with lake-like conditions.

(8) Drinking water supply (Class "C"). Waters which are used as a raw water source of potable water supply.

ITEM 11. Amend renumbered subrule 61.3(2), introductory paragraph, and paragraphs "d" and "h," as follows:

61.3(2) General water quality criteria. The following criteria are applicable to all surface waters including those which have been designated as Class-"A"; -"B"; -or-"G" general use and designated use waters, at all places and at all times to protect livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, domestic, agricultural and other incidental water withdrawal uses not protected by Class-A; -B; -or-G criteria-in-this-rule the specific numerical criteria of subrule 61.3(3).

d. Such waters shall be free from substances attributable to wastewater discharges or agricultural practices in concentrations or combinations which are acutely toxic or-harmful to human, animal, or plant life.

h. Water which enters a sinkhole or losing stream segment shall not exceed a fecal coliform content of 200 organisms/100ml, except when the waters are materially affected by surface runoff, but in no case shall fecal coliform levels downstream from a an existing discharge which may contain pathogens to humans be more than 200 organisms/100ml higher than the background level upstream from the discharge. No new wastewater discharges will be allowed on watercourses which directly or indirectly enter sinkholes or losing stream segments.

ITEM 12. Rescind subrules 61.3(2) to 61.3(4) and insert the following:

61.3(3) Specific water quality criteria.

a. Class "A" waters. Waters which are designated as Class "A" in subrule 61.3(5) are to be protected for primary contact recreation. The general criteria of subrule 61.3(2) and the following specific criteria apply to all Class "A" waters.

(1) From April 1 through October 31, the fecal coliform content shall not exceed 200 organisms/100 ml, except when the waters are materially affected by surface runoff; but in no case shall fecal coliform levels downstream from a

discharge which may contain pathogens to humans be more than 200 organisms/100 ml higher than the background level upstream from the discharge.

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

b. Class "B" waters. All waters which are designated as Class B(CW), B(WW), B(LR), or B(LW) are to be protected for wildlife, fish, aquatic and semiaquatic life, and secondary contact water uses. The following criteria shall apply to all Class "B" waters designated in subrule 61.3(5).

(1) Dissolved oxygen. Dissolved oxygen shall not be less than the values shown in Table 2 of this subrule.

(2) pH. The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

(3) General chemical constituents. The specific numerical criteria shown in Tables 1, 2, and 3 of this subrule apply to all waters designated in subrule 61.3(5). The sole determinant of compliance with these criteria will be established by the department on a case-by-case basis. Effluent monitoring or in-stream monitoring, or both, will be the required approach to determine compliance.

1. The acute criteria represent the level of protection necessary to prevent acute toxicity to aquatic life. In-stream concentrations above the acute criteria will be allowed only within the boundaries of the zone of initial dilution.

2. The chronic criteria represent the level of protection necessary to prevent chronic toxicity to aquatic life. Excursions above the chronic criteria will be allowed only inside of mixing zones or only for short-term periods outside of mixing zones; however, these excursions cannot exceed the acute criteria shown in Tables 1 and 3. The chronic criteria will be met as short-term average conditions at all times the flow equals or exceeds either the seven-day, ten-year flow or any site specific low flow established under the provisions of subrule 61.2(5).

(4) The waters shall contain no substances in concentrations which will make fish or shellfish inedible due to undesirable tastes or cause a hazard to humans after consumption.

(5) Temperature.

1. No heat shall be added to interior streams or the Big Sioux River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 32°C.

2. No heat shall be added to streams designated as cold water fisheries that would cause an increase of more than 2°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 20°C.

3. No heat shall be added to lakes and reservoirs that would cause an increase of more than 2°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the temperature of the lake or reservoirs above 32°C.

4. No heat shall be added to the Missouri River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added that would raise the stream temperature above 32°C.

5. No heat shall be added to the Mississippi River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed

1°C per hour. In addition, the water temperature at representative locations in the Mississippi River shall not exceed the maximum limits in the table below during more than 1 percent of the hours in the 12-month period ending with any month. Moreover, at no time shall the water temperature at such locations exceed the maximum limits in the table below by more than 2°C.

Zone II--Iowa-Minnesota state line to the northern Illinois border (Mile Point 1534.6)

Zone III--Northern Illinois border (Mile Point 1534.6) to Iowa-Missouri state line.

Month	Zone II	Zone III
January	4°C	7°C
February	4°C	7°C
March	12°C	14°C
April	18°C	20°C
May	24°C	26°C
June	29°C	29°C
July	29°C	30°C
August	29°C	30°C
September	28°C	29°C
October	23°C	24°C
November	14°C	18°C
December	9°C	11°C

c. Class "C" waters. Waters which are designated as Class "C" are to be protected as a raw water source of potable water supply. The following criteria shall apply to all Class "C" waters designated in subrule 61.3(5).

(1) Radioactive substances.

1. The combined radium-226 and radium-228 shall not exceed 5 picocuries per liter at the point of withdrawal.

2. Gross alpha particle activity (including radium-226 but excluding radon and uranium) shall not exceed 15 picocuries per liter at the point of withdrawal.

3. The average annual concentration at the point of withdrawal of beta particle and photon radioactivity from man-made radionuclides other than tritium and strontium-90 shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

4. The average annual concentration of tritium shall not exceed 20,000 picocuries per liter at the point of withdrawal; the average annual concentration of strontium-90 shall not exceed 8 picocuries per liter at the point of withdrawal.

(2) All substances toxic or detrimental to humans or detrimental to treatment process shall be limited to nontoxic or nondetrimental concentrations in the surface water.

(3) The pH shall not be less than 6.5 nor greater than 9.0.

TABLE 1: Criteria For Chemical Constituents
(all values as micrograms per liter unless noted otherwise).

Parameter		Use Designations				C
		B(CW)	B(WW)	B(LR)	B(LW)	
Arsenic (III)	Chronic	200	200	1000	200	--
	Acute	360	360	1800	360	50
Barium	Acute	--	--	--	--	1000
Benzene	Acute	--	--	--	--	5
Cadmium	Chronic	1	15	25	1	--
	Acute	4	75	100	4	10
Carbon Tetra- chloride	Acute	--	--	--	--	5
Chloride	Acute	--	--	--	--	250M
Chlordane	Chronic	.004	.004	.15	.004	--
	Acute	2.5	2.5	2.5	2.5	--
Chromium (VI)	Chronic	40	40	200	10	--
	Acute	60	60	300	15	50
Copper	Chronic	20	35	55	10	--
	Acute	30	60	90	20	1000
Cyanide	Chronic	5	10	10	10	--
	Acute	20	45	45	45	20
para-Dichloro- benzene	Acute	--	--	--	--	75
1,2-Dichloro- ethane	Acute	--	--	--	--	5
1,1-Dichloro- ethylene	Acute	--	--	--	--	7
Fluoride	Acute	--	--	--	--	2000
Lead	Chronic	3	30	80	3	--
	Acute	80	200	750	80	50
Mercury (II)	Chronic	.05	.05	.25	.05	--
	Acute	6.5	6.5	10	2.5	2
Nitrate as NO3	Acute	--	--	--	--	45M

Nickel	Chronic	350	650	750	150	--
	Acute	3250	5800	7000	1400	--
Polychlorinated Biphenyls (PCBs)	Chronic	.014	.014	1	.014	--
	Acute	2	2	2	2	--
Polynuclear Aromatic Hydro-Carbons (PAHs)**	Chronic	.03	.03	3	.03	--
	Acute	30	30	30	30	--
Phenols	Chronic	50	50	50	50	--
	Acute	1000	2500	2500	1000	50
Selenium (VI)	Chronic	10	125	125	70	--
	Acute	15	175	175	100	10
Silver	Chronic	2.5	8.5	8.5	.35	--
	Acute	30	100	100	4	50
Toluene	Chronic	50	50	150	50	--
	Acute	2500	2500	7500	2500	--
Total Residual Chlorine (TRC)	Chronic	10	20	25	10	--
	Acute	35	35	40	20	--
1,1,1-Trichloro-ethane	Acute	--	--	--	--	200
Trichloroethylene (TCE)	Chronic	80	80	80	80	--
	Acute	4000	4000	4000	4000	5
Vinyl Chloride	Acute	--	--	--	--	2
Zinc	Chronic	200	450	2000	100	--
	Acute	220	500	2200	110	1000

*expressed as milligrams/liter

**to include the sum of known and suspected carcinogenic PAHs

TABLE 2: Criteria For Dissolved Oxygen
(all values expressed as milligrams per liter)

	B(CW)	B(WW)	B(LR)	B(LW)
Minimum value for at least 16 hours of every 24-hour period	7.0	5.0	5.0	5.0**
Minimum value at any time during every 24-hour period	5.0	5.0	4.0	5.0**

*applies only to the upper layer of stratification in lakes

TABLE 3a: Criteria For Ammonia Nitrogen -- Cold Water Streams
(all values expressed as milligrams per liter)

Temp. °C		pH											
		6.5	7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0
1.0	Acute	28.5	22.9	19.7	16.0	12.4	9.2	6.5	4.1	2.6	1.7	1.0	.7
	Chronic	5.7	4.6	3.9	3.2	2.5	1.8	1.3	0.8	0.5	0.3	.2	.1
5.0	Acute	27.0	21.7	18.7	15.2	11.8	8.7	6.2	3.9	2.5	1.6	1.0	.7
	Chronic	5.4	4.3	3.7	3.0	2.4	1.7	1.2	0.8	0.5	.3	.2	.1
10.0	Acute	25.6	20.6	17.7	14.5	11.2	8.3	5.9	3.8	2.4	1.6	1.0	.7
	Chronic	5.1	4.1	3.5	2.9	2.2	1.7	1.2	0.8	0.5	.3	.2	.1
15.0	Acute	24.6	19.8	17.0	13.9	10.8	8.0	5.7	3.7	2.4	1.5	1.0	.7
	Chronic	4.9	4.0	3.4	2.8	2.2	1.6	1.1	0.7	0.5	.3	.2	.1
20.0	Acute	24.0	19.3	16.6	13.6	10.6	7.9	5.6	3.6	2.4	1.5	1.0	.7
	Chronic	4.8	3.9	3.3	2.7	2.1	1.6	1.1	0.7	0.5	.3	.2	.1
25.0	Acute	16.7	13.5	11.6	9.5	7.4	5.5	4.0	2.6	1.7	1.2	.8	.6
	Chronic	3.3	2.7	2.3	1.9	1.5	1.1	0.8	0.5	0.3	.2	.2	.1
30.0	Acute	11.8	9.6	8.2	6.8	5.3	4.0	2.9	1.9	1.3	.9	.6	.5
	Chronic	2.4	1.9	1.6	1.4	1.1	0.8	0.6	0.4	0.3	.2	.1	.1

TABLE 3b: Criteria For Ammonia Nitrogen -- Warm Water Streams and Lakes
(all values expressed as milligrams per liter)

Temp. °C		pH											
		6.5	7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0
1.0	Acute	49.0	39.5	33.8	27.6	21.4	15.8	11.2	7.1	4.5	2.9	1.8	1.2
	Chronic	9.8	7.9	6.8	5.5	4.3	3.2	2.2	1.4	0.9	0.6	.4	.2
5.0	Acute	46.4	37.4	32.1	26.2	20.3	15.0	10.6	6.8	4.3	2.8	1.8	1.2
	Chronic	9.3	7.5	6.4	5.2	4.1	3.0	2.1	1.4	0.9	0.6	.4	.2
10.0	Acute	44.0	35.5	30.5	24.9	19.3	14.3	10.1	6.5	4.1	2.7	1.8	1.2
	Chronic	8.8	7.1	6.1	5.0	3.9	2.9	2.0	1.3	0.8	.5	.4	.2
15.0	Acute	42.3	34.1	29.3	24.0	18.6	13.8	9.8	6.3	4.1	2.7	1.8	1.2
	Chronic	8.5	6.8	5.9	4.8	3.7	2.8	2.0	1.3	0.8	.5	.4	.2
20.0	Acute	41.2	33.3	28.6	23.4	18.2	13.5	9.7	6.2	4.1	2.7	1.8	1.2
	Chronic	8.2	6.7	5.7	4.7	3.6	2.7	1.9	1.2	0.8	.5	.4	.2
25.0	Acute	40.7	32.9	28.3	23.2	18.1	13.5	9.7	6.3	4.2	2.7	1.8	1.2
	Chronic	8.1	6.6	5.7	4.6	3.6	2.7	1.9	1.3	0.8	.5	.4	.2
30.0	Acute	20.4	16.5	14.2	11.7	9.1	6.8	5.0	3.3	2.2	1.5	1.1	.8
	Chronic	4.1	3.3	2.8	2.3	1.8	1.4	1.0	0.7	0.4	.3	.2	.2

TABLE 3c: Criteria For Ammonia Nitrogen -- Limited Resource Streams
(all values expressed as milligrams per liter)

Temp. °C	pH												
	6.5	7.0	7.2	7.4	7.6	7.8	8.0	8.2	8.4	8.6	8.8	9.0	
1.0 Acute	71	57.6	49.4	40.3	31.2	23.0	16.3	10.3	6.6	4.2	2.6	1.7	
Chronic	14.3	11.5	9.9	8.1	6.2	4.6	3.3	2.1	1.3	0.8	.5	.3	
5.0 Acute	67.8	54.6	46.8	38.2	29.6	21.9	15.5	9.9	6.3	4.0	2.6	1.7	
Chronic	13.6	10.9	9.4	7.6	5.9	4.4	3.1	2.0	1.3	.8	.5	.3	
10.0 Acute	64.2	51.8	44.4	36.3	28.2	20.8	14.8	9.4	6.1	3.9	2.6	1.7	
Chronic	12.8	10.4	8.9	7.3	5.6	4.2	3.0	1.9	1.2	.8	.5	.3	
15.0 Acute	61.8	49.8	42.8	35.0	27.2	20.1	14.3	9.2	5.9	3.9	2.6	1.8	
Chronic	12.4	10.0	8.6	7.0	5.4	4.0	2.9	1.8	1.2	.8	.5	.4	
20.0 Acute	60.2	48.6	41.7	34.2	26.6	19.7	14.1	9.1	6.0	4.0	2.7	1.9	
Chronic	12.0	9.7	8.3	6.8	5.3	3.9	2.8	1.8	1.2	.8	.5	.4	
25.0 Acute	59.4	48.0	41.3	33.8	26.4	19.7	14.2	9.2	6.1	4.0	2.7	1.9	
Chronic	11.9	9.6	8.3	6.8	5.3	3.9	2.8	1.8	1.2	.8	.5	.4	
30.0 Acute	29.7	24.1	20.7	17.0	13.3	10.0	7.2	4.8	3.2	2.2	1.6	1.2	
Chronic	5.9	4.8	4.1	3.4	2.7	2.0	1.4	1.0	0.6	.4	.3	.2	

ITEM 13. Amend subrule 62.8(2), third sentence, as follows:

Any such effluent limitation shall be determined using a statistically based portion of the calculated on-the-basis-of-a wasteload allocation, as described in "Supporting Document for Iowa Water Quality Management Plans" (Iowa Department of Water, Air and Waste Management, July 1976, Chapter IV, as revised on October 16, 1984, 1989).

Date

Larry J. Wilson, Director

(A:EP60-61.MIN/181-89)

July 1989

Environmental Protection Commission Minutes

Mr. McAllister explained the rules in detail and noted they will modify criteria in the narrative sections of the department's water quality standards. The second phase of effort will be to review and reclassify each stream in the state (this will be done under another set of rules). He noted that a technical committee met twice to study the rules and a draft economic impact statement. This committee outlined the following concerns and issues: 1) waste allocation procedure in permit limits; 2) costs to control other pollutants; and 3) costs to treatment plants for operation and maintenance. Mr. McAllister stated that this item will be brought before the Commission as a final rule in October or November.

Discussion followed regarding the make up of the technical advisory committee, as well as various parts of the rule.

It was decided that Richard Hartsuck would represent the Commission at future meetings of this committee.

Motion was made by Margaret Prael to approve Notice of Intended Action--Chapters 60, 61, & 62, Water Quality Standards. Seconded by Gary Priebe. Motion carried unanimously.

FINAL RULE--CHAPTERS 135-136, UNDERGROUND STORAGE TANK FINANCIAL RESPONSIBILITY

Darrell McAllister, Bureau Chief, Surface & Groundwater Protection Bureau, presented the following item. Adopt the attached new Chapter 136, "Financial Responsibility for Underground Storage Tanks." The new Chapter 136 is the federal financial responsibility rules for underground storage tanks in Iowa rule format.

The only changes to the originally proposed rules are to subrules 136.1(2) and 136.1(4). The changes make all farm and residential tanks exempt from the Chapter 136 rules. Previously those tanks installed after July 1, 1987 were subject to the rules. The recently enacted House File 447 changed the statute to include these tanks in the exemption from the financial responsibility rules since they are excluded under federal law.

The only comments on the Chapter 136 rules came from Iowa Association of Municipal Utilities. Their comments and the department's response are attached. No changes to the rules were made based on the comments.

Amend Chapter 135 by changing the title from "Underground Storage Tanks" to "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks" and changing paragraph 135.3(3)"d"(3) to reference the new Chapter

136 rather than the general financial requirements in the statute. The new Chapter 135 title is the same as found in the federal rules and better describes the contents.

(Rule is shown on the following 34 pages)

14.

Item 1. Amend 567--Chapter 135 by adopting a new chapter title as follows:
"Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks."

Further amend Chapter 135 by rescinding subparagraph 567--135.3(3)"d"3 and replace it with the following:

(3) Financial responsibility under 567--Chapter 136, Iowa Administrative Code.
Item 2. Adopt the following new Chapter 136, "Financial Responsibility for Underground Storage Tanks".

Chapter 136
Financial Responsibility for Underground Storage Tanks

567--136.1(455B) Applicability.

136.1(1) This chapter applies to owners and operators of all petroleum underground storage tank (UST) systems except as otherwise provided in this rule.

136.1(2) Owners and operators of petroleum UST systems are subject to these requirements if they are in operation on or after the date for compliance established in rule 136.2(455B).

136.1(3) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this chapter.

136.1(4) The requirements of this chapter do not apply to owners and operators of farm or residential tanks of 1,100 gallons or less capacity or any UST system described in paragraphs 135.1(3) "b" or "c".

136.1(5) If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in rule 136.2 (455B).

567--136.2(455B) Compliance dates. Owners of petroleum underground storage tanks are required to comply with the requirements of this chapter by the following dates:

163.2(1) All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of \$20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration, or the Rural Electrification Administration; January 24, 1989.

136.2(2) All petroleum marketing firms owning 100-999 USTs; October 26, 1989.

136.2(3) All petroleum marketing firms owning 13-99 USTs at more than one facility; April 26, 1990.

136.2(4) All petroleum UST owners not described in paragraphs 136.2(1) - 136.2(3) of this rule, including all local government entities; October 26, 1990.

567--136.3(455B) Definition of terms.

"Accidental release" means any sudden or nonsudden release of petroleum from an underground storage tank that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

"Bodily injury" shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Controlling interest" means direct ownership of at least 50 percent of the voting stock of another entity.

"Director" means the director of the Iowa department of natural resources or local agency responsible for carrying out an approved UST program.

"Financial reporting year" means the latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared:

- (1) a 10-K report submitted to the SEC;
- (2) an annual report of tangible net worth submitted to Dun and Bradstreet; or
- (3) annual reports submitted to the Energy Information Administration or the Rural Electrification Administration. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

"Legal defense cost" is any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought:

- (1) by EPA or a state to require corrective action or to recover the costs of corrective action;
- (2) by or on behalf of a third party for bodily injury or property damage caused by an accidental release; or
- (3) by any person to enforce the terms of a financial assurance mechanism.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank.

Note: This definition is intended to assist in the understanding of these regulations and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

"Owner or operator," when the owner or operator are separate parties, refers to the party that is obtaining or has obtained financial assurances.

"Petroleum marketing facilities" include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

"Petroleum marketing firms" are all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.

"Property damage" shall have the meaning given this term by applicable state law. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks which are covered by the policy.

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in rules 136.6(455B)--136.12(455B), including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit, issuer of a state-required mechanism, or a state.

"Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

567--136.4(455B) Amount and scope of required financial responsibility.

136.4(1) Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for

compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following per-occurrence amounts:

a. For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year; \$1 million.

b. For all other owners or operators of petroleum underground storage tanks; \$500,000.

136.4(2) Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:

a. For owners or operators of 1 to 100 petroleum underground storage tanks, \$1 million.

b. For owners or operators of 101 or more petroleum underground storage tanks, \$2 million.

136.4(3) For the purposes of subrules 136.4(2) and 136.4(6) only, a petroleum underground storage tank means a single containment unit and does not mean combinations of single containment units.

136.4(4) Except as provided in subrule 136.4(5), if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:

a. taking corrective action;

b. compensating third parties for bodily injury and property damage caused by sudden accidental releases; or

c. compensating third parties for bodily injury and property damage caused by nonsudden accidental releases, the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in subrules 136.4(1) and 136.4(2).

136.4(5) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

136.4(6) Owners or operators shall review the amount of aggregate assurance provided whenever additional petroleum underground storage tanks are acquired or installed. If the number of petroleum underground storage tanks for which assurance must be provided exceeds 100, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

136.4(7) The amounts of assurance required under this rule exclude legal defense costs.

136.4(8) The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

567--136.5(455B) Allowable mechanisms and combinations of mechanisms.

136.5(1) Subject to the limitations of subrules 136.5(2) and 136.5(3), an owner or operator may use any one or combination of the mechanisms listed in

rules 136.6(455B)--136.12(455B) to demonstrate financial responsibility under this chapter for one or more underground storage tanks.

136.5(2) An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this chapter, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

567--136.6(455B) Financial test of self-insurance.

136.6(1) An owner or operator, and/or guarantor, may satisfy the requirements of rule 136.4(455B) by passing a financial test as specified in this rule. To pass the financial test of self-insurance, the owner or operator, and/or guarantor must meet the criteria of subrules 136.6(2) or 136.6(3) based on year-end financial statements for the latest completed fiscal year.

136.6(2) Financial test alternative I.

a. The owner or operator, and/or guarantor, must have a tangible net worth of at least ten times:

1. The total of the applicable aggregate amount required by rule 136.4(455B), based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to the Iowa department of natural resources under this rule.

2. The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR Parts 264.101, 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 271; and

3. The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR Part 144.63 or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 145.

b. The owner or operator, and/or guarantor, must have a tangible net worth of at least \$10 million.

c. The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer worded as specified in subrule 136.6(4).

d. The owner or operator, and/or guarantor, must either:

(1) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or

(2) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

e. The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

136.6(3) Financial test alternative II.

a. The owner or operator, and/or guarantor must meet the financial test requirements of 40 CFR 264.147(f)(1) substituting the appropriate amounts specified in 136.4(2) paragraphs "a" and "b", for the "amount of liability coverage" each time specified in that section.

b. The fiscal year-end financial statements of the owner or operator, and/or guarantor, must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

c. The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

d. The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer, worded as specified in subrule 136.6(4).

e. If the financial statements of the owner or operator, and/or guarantor, are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, the owner or operator, and/or guarantor, must obtain a special report by an independent certified public accountant stating that:

(1) He has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, and/or guarantor, with the amounts in such financial statements; and

(2) In connection with that comparison, no matters came to his attention which caused him to believe that the specified data should be adjusted.

136.6(4) To demonstrate that it meets the financial test under subrules 136.6(2) or 136.6(3), the chief financial officer of the owner or operator, and/or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," and/or "guarantor"]:
[List for each facility: the name and address of the facility where tanks assured by this financial test

are located and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to subrule 135.3(3)].

A [insert: "financial test," and/or "guarantee"] is also used by this [insert: "owner or operator," or guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 50 CFR Parts 271 and 145:

EPA Regulation:	Amount
Closure (§§264.143 and 265.143).....	\$_____
Post-Closure Care (§§264.145 and 265.145)..	\$_____
Liability Coverage (§§264.147 and 265.147).	\$_____
Corrective Action (§264.101(b)).....	\$_____
Plugging and Abandonment (§144.63).....	\$_____

Authorized State Programs:	Amount
Closure	\$_____
Post-Closure Care	\$_____
Liability Coverage	\$_____
Corrective Action	\$_____
Plugging and Abandonment	\$_____
TOTAL	\$_____

This [insert: "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of subrule 136.6(2) are being used to demonstrate compliance with the financial test requirements. Fill in the information of Alternative II if the criteria of subrule 136.6(3) are being used to demonstrate compliance with the financial test requirements.]

ALTERNATIVE I

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee.....\$_____
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee.....\$_____
3. Sum of lines 1 and 2.....\$_____
4. Total tangible assets.....\$_____
5. Total liabilities [if any of the amount reported on line 3 is included in total

liabilities, you may deduct that amount

from this line and add that amount to

line 6].....\$_____

6. Tangible net worth [subtract line 5
from line 4].....\$_____

Yes No

7. Is line 6 at least \$10 million?..... _____

8. Is line 6 at least 10 times line 3?..... _____

9. Have financial statements for the
latest fiscal year been filed with
the Securities and Exchange
Commission?..... _____

10. Have financial statements for the
latest fiscal year been filed with
the Energy Information Administration?..... _____

11. Have financial statements for the
latest fiscal year been filed with
the Rural Electrification
Administration?..... _____

12. Has financial information been provided
to Dun and Bradstreet, and has Dun
and Bradstreet provided a financial
strength rating of 4A or 5A? [Answer
"Yes" only if both criteria have
been met.]..... _____

ALTERNATIVE II

1. Amount of annual UST aggregate coverage
being assured by a financial test,
and/or guarantee..... \$_____
2. Amount of corrective action, closure
and post-closure care costs, liability
coverage, and plugging and abandonment
costs covered by a financial test,
and/or guarantee..... \$_____
3. Sum of lines 1 and 2 \$_____
4. Total tangible assets..... \$_____
5. Total liabilities [if any of the
amount reported on line 3 is
included in total liabilities,
you may deduct that amount from
this line and add that amount to
line 6]..... \$_____
6. Tangible net worth [subtract line 5
from line 4]..... \$_____
7. Total assets in the U.S. [required
only if less than 90 percent of
assets are located in the U.S.]..... \$_____
8. Is line 6 at least \$10 million?..... _____
9. Is line 6 at least 6 times line 3?..... _____
10. Are at least 90 percent of assets
located in the U.S.? [If "No,"
complete line 11.] _____

11. Is line 7 at least 6 times line 3?.....
[Fill in either lines 12-15 or lines 16-18:]
12. Current assets..... \$
13. Current liabilities..... \$
14. Net working capital [subtract line 13
from line 12]..... \$
15. Is line 14 at least 6 times line 3?....
16. Current bond rating of most recent
bond issue.....
17. Name of rating service.....
18. Date of maturity of bond.....
19. Have financial statements for the
latest fiscal year been filed with
the SEC, the Energy Information
Administration, or the Rural
Electrification Administration?.....

[If "No," please attach a report from
an independent certified public accountant
certifying that there are no material
differences between the data as reported
in lines 4-18 above and the financial
statements for the latest fiscal year.]

[For both Alternative I and Alternative II
complete the certification with this statement.]

I hereby certify that the wording of this letter is
identical to the wording specified in subrule 136.6(4)

as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

136.6(5) If an owner or operator using the test to provide financial assurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

136.6(6) The Director may require reports of financial condition at any time from the owner or operator, and/or guarantor. If the Director finds, on the basis of such reports or other information, that the owner or operator, and/or guarantor, no longer meets the financial test requirements of subrules 136.6(2) or 136.6(3) or 136.6(4), the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.

136.6(7) If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year end financial statements, or within 30 days of notification by the Director that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Director of such failure within 10 days.

567--136.7(455B) Guarantee.

136.7(1) An owner or operator may satisfy the requirements of rule 136.4(455B) by obtaining guarantee that conforms to the requirements of this rule. The guarantor must be:

(1) A firm that possesses a controlling interest in the owner or operator; possesses a controlling interest in such a firm; or, is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or,

(2) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

136.7(2) Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of rule 136.6(455B) based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in subrule 136.6(4) and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the Director notifies the guarantor that he no longer meets the requirements of the financial test of subrules 136.6(2) or 136.6(3) and 136.6(4), the guarantor must notify the owner or operator within 10 days of receiving such notification from the Director. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced

by the return receipt. The owner or operator must obtain alternate coverage as specific in subrule 136.19(3).

136.7(3) The guarantee must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

GUARANTEE

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the state of Iowa, herein referred to as guarantor, to the Iowa Department of Natural Resources and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

Recitals.

1. Guarantor meets or exceeds the financial test criteria of subrules 567--136.6(2) or 136.6(3) and 136.6(4) and agrees to comply with the requirements for guarantors as specified in subrule 136.7(2).

2. [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 135.3(3) and the name and address of the facility.] This guarantee satisfies 567-Chapter 136 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

3. [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to the Iowa Department of Natural Resources and to any and all third parties that:

In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Director of the Iowa Department of Natural Resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the Director, shall fund a standby trust fund in accordance with the provisions of rule 567--136.17, in an amount not to exceed the coverage limits specified above.

In the event that the director determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with rule 567--135.7, the guarantor upon written instructions from the Director shall fund a standby trust in accordance with the provisions of rule 567--136.17 in an amount not to exceed the coverage limit specified above.

If [owner or operator] fails to satisfy a judgement or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden and/or "nonsudden"] accidental releases arising from the operation of the above-identified tanks(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Director, shall fund a standby trust in accordance with the provisions of rule 567--136.17 to satisfy such judgment(s), awards(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of subrules 567--136.6(2) or 136.6(3) and 136.6(4), guarantor shall send within 120 days of such failure, by certified mail, notice to [owner or operator]. The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567--Chapter 135 or Chapter 136.

7. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of 567--Chapter 136 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

8. The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a worker's compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of rule 567--136.4.

9. Guarantor expressly waives notice of acceptance of this guarantee by the Iowa Department of Natural Resources, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in subrule 567--136.7(3) as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: _____

136.7(4) An owner or operator who uses a guarantee to satisfy the requirements of rule 136.4(455B) must establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the Director under rule 136.17(455B). This standby trust fund must meet the requirements specified in rule 136.12(455B).

567--136.8(455B) Insurance and risk retention group coverage.

136.8(1) An owner or operator may satisfy the requirements of subrule 136.4(455B) by obtaining liability insurance that conforms to the requirements of this rule from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

136.8(2) Each insurance policy must be amended by an endorsement worded as specified in paragraph 136.8(2)"a" "ENDORSEMENT" or evidenced by a certificate of insurance worded as specified in 136.8(2)"b" "CERTIFICATE OF INSURANCE", except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

(a) ENDORSEMENT

Name: _____

Address: [address of each covered location] _____

Policy Number: _____

Period of Coverage: [current policy period] _____

Name of [Insurer or Risk Retention Group]: _____

Address of [Insurer or Risk Retention Group]: _____

Name of Insured: _____

Address of Insured: _____

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 567--135.3(3) and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is

different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligation under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in rules 567--136.6 - 136.11.

c. Whenever requested by the Director of the Iowa Department of Natural Resources, the ["Insurer" or "Group"] agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in subrule 567--136.8(2) "ENDORSEMENT" and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states"].

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized

Representative of [name of Insurer or Risk Retention Group]

[Address or Representative]

b. CERTIFICATE OF INSURANCE

Name: _____ [name of each covered location]

Address: _____ [address of each covered location]

Policy Number: _____

Endorsement (if applicable): _____

Period of Coverage: _____ [current policy period]

Name of [Insurer or Risk Retention Group]: _____

Name of Insured: _____

Address of Insured: _____

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 567--135.3(3) and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in subrules 567--136.6 - 136.13.

c. Whenever requested by the Director of the Iowa Department of Natural Resources, the ["Insurer" or "Group"] agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or other termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in subrule 567--136.8(2) "CERTIFICATE OF INSURANCE" and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states"].

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

136.8(3) Each insurance policy must be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

567--136.9(455B) Surety bond.

136.9(1) An owner or operator may satisfy the requirements of rule 136.4(455B) by obtaining a surety bond that conforms to the requirements of this rule. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

136.9(2) The surety bond must be worded as follows, except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond executed: _____

Period of coverage: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable): _____

Surety(ies): [name(s) and business address(es)]

Scope of Coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 567--135.3(3), and the name and address of the

facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].

Penal sums of bond: Per occurrence \$ _____

Annual aggregate \$ _____

Surety's bond number: _____

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to The Iowa Department of Natural Resources, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, to provide financial assurance for [insert: "Taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with rule 567--135.7 and the Director of the Iowa Department of Natural Resources instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in Chapter 567--136, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

a. Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

- b. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- e. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of rule 567--136.4.

The Surety(ies) shall become liable on the bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Director of the Iowa Department of Natural Resources that the Principal has failed to ["take corrective action, in accordance with rule 567--135.7 and the Director's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in accordance with 567--Chapter 135 and the Director's instructions," and/or "third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Director under rule 567--136.7.

Upon notification by the Director that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Director has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Director under rule 567--136.17.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Whereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and what the wording of this surety bond is identical to the wording specified in subrule 567--136.9(2) as such regulations were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY(IES)

[Name and address]

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State of Incorporation: _____

Liability limit: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.] 14.

Bond premium: \$ _____

136.9(3) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

136.9(4) The owner or operator who uses a surety bond to satisfy the requirements of rule 136.4(455B) must establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the Director under rule 136.19(455B). This standby trust fund must meet the requirements specified in rule 136.14(455B).

567--136.10(455B) Letter of credit.

136.10(1) An owner or operator may satisfy the requirements of rule 136.4(455B) by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subrule. The issuing institution must be an entity that has the authority to issue letters of credit in Iowa and whose letter-of-credit operations are regulated and examined by a federal or state agency.

136.10(2) The letter of credit must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and address of issuing institution]

[Name and address of Director of Iowa Department
of Natural Resource]

Dear Sir or Madam: We hereby establish our
Irrevocable Standby Letter of Credit No. 14 in
your favor, at the request and for the account of
[owner or operator name] of [address] up to the
aggregate amount of [in words] U.S. dollars
(\$[insert dollar amount]), available upon
presentation of

(1) your sight draft, bearing reference to this
letter of credit, No. ____, and

(2) your signed statement reading as follows:
"I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Resource Conservation and Recover Act of 1976, as amended."

This letter of credit may be drawn on to cover [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 567--135.3(3) and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation,

disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of rule 567--136.4.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided

not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in subrule 567--136.10(2) as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of commerce," or "the Uniform Commercial Code"].

136.10(3) An owner or operator who uses a letter of credit to satisfy the requirements of subrule 135.9(4) must also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all

amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director under rule 136.17(455B). This standby trust fund must meet the requirements specified in rule 136.12(455B).

136.10(4) The letter of credit must be irrevocable with a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator receives the notice, as evidenced by the return receipt.

567--136.11(455B) Trust fund.

136.11(1) An owner or operator may satisfy the requirements of rule 136.4(455B) by establishing a trust fund that conforms to the requirements of this rule. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

136.11(2) The wording of the trust agreement must be identical to the wording specified in subrule 136.12(2) "TRUST AGREEMENT" and must be accompanied by a formal certification of acknowledgment as specified in subrule 136.12(2) "CERTIFICATION".

136.11(3) The trust fund, when established, must be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.

136.11(4) If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Director for release of the excess.

136.11(5) If other financial assurances as specified in this rule is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Director for release of the excess.

136.11(6) Within 60 days after receiving a request from the owner or operator for release of funds as specified in 136.11(4) or 136.11(5), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

567--136.12(455B) Standby trust fund.

136.12(1) An owner or operator using any one of the mechanisms authorized by rules 136.7(455B), 136.9(455B) or 136.10(455B) must establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

136.12(2) The standby trust agreement or trust agreement must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the bracket deleted:

TRUST AGREEMENT

Trust agreement, the "Agreement," entered into
as of [date] by and between [name of the owner or
operator], a [name of state] [insert

"corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of _____" or "a national bank"^{1a}], the "Trustee."

[Whereas, the Iowa Department of Natural Resources, has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the standby trust agreement.]

[Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.)];

[Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee];

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

[Section 2. Identification of the Financial Assurance Mechanism. This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Iowa Department of Natural Resources. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. [The Fund is established initially as a standby to receive payments and shall not consist of any property.] Payments made by the provider of financial assurance pursuant to the Director of the Iowa Department of Natural Resources. Instructions are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the Iowa Department of Natural Resources.

Section 4. Payment for ["Corrective Action" and/or "Third-Party Liability Claims"]. The Trustee shall make payments from the Fund as the Director of the Iowa Department of Natural Resources shall direct, in writing, to provide for the payment of the costs of [insert: "Taking corrective action" and/or, "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

(a) Any obligation of [insert owner or operator] under a worker's compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract

or agreement other than a contract or agreement entered into to meet the requirements of rule 567--136.4.

The Trustee shall reimburse the Grantor, or other persons as specified by the Director, from the Fund for corrective action expenditures and/or third-party liability claims in such amounts as the Director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to

combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or saving certificates issued by the the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 13. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Director of the Iowa Department of Natural Resources to the Trustee shall be in writing, signed by the Director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to

the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Director, except as provided for herein.

Section 14. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Director of the Iowa Department of Natural Resources if the Grantor ceases to exist.

Section 15. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Director of the Iowa Department of Natural Resources, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 16. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Director of the Iowa Department of Natural Resources issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the state of Iowa, or the Comptroller of the Currency in the case of National Association banks.

Section 18. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of the Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in subrule 567--136.12(2) "TRUST AGREEMENT" as such regulations were constituted on the date written above.

[Signature of Grantor]
[Name of the Grantor]
[Title]

Attest:

[Signature of Trustee]
[Name of the Trustee]
[Title]
[Seal]

Attest:

[Signature of Witness]
[Name of Witness]
[Title]
[Seal]

The standby trust agreement must be accompanied by a formal certification of acknowledgment similar to the following.

CERTIFICATION

State of _____

County of _____

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Name of Notary Public]

136.12(3) The Director of the Iowa Department of Natural Resources instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the Director determines that no additional corrective action costs of third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

136.12(4) An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this chapter.

567--136.13(455B) Substitution of financial assurance mechanisms by owner or operator.

136.13(1) An owner or operator may substitute any alternate financial assurance mechanisms as specified in this chapter provided that at all times he maintains an effective financial assurance mechanism or combination of mechanisms that satisfied the requirements of rule 136.4(455B).

136.13(2) After obtaining alternate financial assurance as specified in this chapter, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

567--136.14(455B) Cancellation or nonrenewal by a provider of financial assurance.

136.14(1) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.

a. Termination of a guarantee, a surety bond, or a letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

b. Termination of insurance, risk retention group coverage, or state-funded assurance may not occur until 60 days after the date of which the owner or operator receives the notice of termination, as evidenced by the return receipt.

136.14(2) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in rule 136.15(455B), the owner or operator must obtain alternate coverage as specified in this rule within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Director of the Iowa Department of Natural Resources of such failure and submit the name and address of the provider of financial assurance; the effective date of termination; and the evidence of the financial assurance mechanism subject to the termination maintained in accordance with subrule 136.8(2).

567--136.15(455B) Reporting by owner or operator.

136.15(1) An owner or operator must submit the appropriate forms listed in subrule 136.16(2) documenting current evidence of financial responsibility to the Director of the Iowa Department of Natural Resources.

a. Within 30 days after the owner or operator identifies a release from an underground storage tank required to be reported under subrules 135.6(4) or 135.7(2);

b. If the owner or operator fails to obtain alternate coverage^a as required by this chapter, within 30 days after the owner or operator receives notice of:

(1) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor,

(2) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism,

(3) Failure of a guarantor to meet the requirements of the financial test,

(4) Other incapacity of a provider of financial assurance; or

c. As required by subrules 136.6(7) and 136.14(2).

136.15(2) An owner or operator must certify compliance with the financial responsibility requirements of the chapter as specified in the new tank notification form when notifying the appropriate state or local agency of the installation of a new underground storage tank under subrule 135.3(3).

136.15(3) The Director may require an owner or operator to submit evidence of financial assurance as described in subrule 136.16(2) or other information relevant to compliance with this chapter at any time.

567--136.16(455B) Record keeping.

136.16(1) Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this chapter for an underground storage tank until released from the requirements of the chapter under rule 136.18(455B). An owner or operator must maintain such evidence at the underground storage tank site or the owner's or operator's place of business. Records maintained off-site must be made available upon request of the Iowa Department of Natural Resources.

136.16(2) An owner or operator must maintain the following types of evidence of financial responsibility:

a. An owner or operator using an assurance mechanism specified in rules 136.6(455B) - 136.11(455B) must maintain a copy of the instrument worded as specified.

b. An owner or operator using a financial test or guarantee must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than 120 days after the close of the financial reporting year.

c. An owner or operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

d. An owner or operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

e. An owner or operator using an assurance mechanism specified in rules 136.6(455B) - 136.11(455B) must maintain an updated copy of a certification of financial responsibility worded as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

CERTIFICATION OF FINANCIAL RESPONSIBILITY

[Owner or operator] hereby certifies that it is in compliance with the requirements of 567--Chapter 136.

The financial assurance mechanism[s] used to demonstrate financial responsibility under 567--Chapter 136 is [are] as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

The owner or operator must update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

567--136.17(455B) Drawing on financial assurance mechanisms.

136.17(1) The Director of the Department of Natural Resources shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the Director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

a. The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

The Director determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified the Director pursuant to rules 135.6 or 135.7 of a release from an underground storage tank covered by the mechanism; or

b. The conditions of 136.17(2)"a" or 136.17(2)"b"(1) or 136.17(2)"b"(2) are satisfied.

136.17(2) The Director of the Iowa Department of Natural Resources may draw on a standby trust fund when:

a. The Director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice an opportunity to comply, has not conducted corrective action as required under rule 135.9 or

b. The Director has received either:

(1) Certification from the owner or operator and the third-party liability claimant(s) and from attorneys representing the owner or operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATION OF VALID CLAIM

The undersigned, as principals and as legal representative of [insert owner or operator] and [insert name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[_____].

[Signatures]
Owner or Operator

[Signature(s)]
Claimant(s)

Attorney for
Owner or Operator

Attorney(s) for
Claimant(s)

(Notary) Date (Notary) Date; or

(2) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this Chapter and the Director determines that the owner or operator has not satisfied the judgment.

136.17(3) If the Director of the Department of Natural Resources determines that the amount of corrective action costs and third-party liability claims eligible for payment under 136.17(2) "b" may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The Director shall pay third-party liability claims in the order in which the Director receives certifications under subparagraph 136.17(2)"b"(1) and valid court orders under subparagraph 136.17(2)"b"(2).

567--136.18(455B) Release from the requirements. An owner or operator is no longer required to maintain financial responsibility under this chapter for an underground storage tank after the tank has been properly closed or, if corrective action is required, after corrective action has been completed and the tank has been properly closed as required by rule 135.8(455B).

567--136.19(455B) Bankruptcy or other incapacity of owner or operator or provider of financial assurance.

136.19(1) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the Director of the Iowa Department of Natural Resources by certified mail of such commencement and submit the appropriate forms listed in subrule 136.16(2) documenting current financial responsibility.

136.19(2) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in rule 136.7(455B).

136.19(3) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, letter of credit, or state-required mechanism. The owner or operator must obtain alternate financial assurance as specified in this rule within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage with 30 days after such notification, he must notify the Director.

136.19(4) Within 30 days after receipt of notification that a state fund or other state assurance has become incapable of paying for assured corrective action or third-party compensation costs, the owner or operator must obtain alternate financial assurance.

567--136.20(455B) Replenishment of guarantees, letters of credit, or surety bonds.

136.20(1) If at any time after a standby trust is funded upon the instruction of the Director with funds drawn from a guarantee, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

(1) Replenish the value of financial assurance to equal the full amount of coverage required. or

(2) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

136.20(2) For purposes of this subrule, the full amount of coverage required is the amount of coverage to be provided by rule 136.4(455B). If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

Date

Larry J. Wilson, Director

(A:EP135B.MIN/103-89)

July 1989

Environmental Protection Commission Minutes

Mr. McAllister pointed out that one comment was received on the rules and it was from the Iowa Association of Municipal Utilities. They indicated that they thought cities and their subsidiariess should be exempted from financial requirements the same as state and federal government is exempted from showing financial responsibility. He noted that the department's response is that the rule being adopted is consistent with the federal government. Also, EPA is looking into having some rules in place before responsibility requirements are placed on cities. EPA is going in the direction that if a city meets a financial test they have the capability to cover their liabilities and they can be exempted from financial responsibility requirements.

Motion was made by Nancylee Siebenmann to approve Final Rule--Chapters 135-136, Underground Storage Tank Financial Responsibility. Seconded by Richard Hartsuck.

Bill Ehm asked if cities become exempt under EPA if the department would have to go through the rulemaking process again.

Mr. McAllister responded that if EPA adopts the rules to exempt cities, the rules would become effective in October 1990. The department could then adopt an emergency rule which would be effective at the time it is adopted, or they could adopt an emergency rule which would become effective when the rule is filed.

Margaret Pahl stated that she would urge staff to develop rules so that they can become effective before the EPA rules to exempt municipalities take effect. She requested that staff bring those rules before the Commission so that they can be put in place prior to October 1990.

Mr. McAllister stated that it is staff's intention to do that.

Vote on the motion by Nancylee Siebenmann to approve the Final Rule on UST Financial Responsibility carried unanimously.

NOTICE OF INTENDED ACTION--CHAPTER 91, CRITERIA FOR AWARD OF GRANTS

Darrell McAllister, Bureau Chief, Surface & Groundwater Protection Bureau, presented the following item. The Commission is requested to approve the Notice of Intended Action for public hearing.

A rule change is proposed regarding the mandatory innovative/alternative (I/A) bonus reserve from federal allotments to provide bonus grants for qualifying projects with innovative and/or alternative treatment technologies. An issue arose where this reserve can be depleted affecting its

availability to projects. Projects placed on the fundable list to use the mandatory Small Community Alternative (SCA) Reserve cannot get a bonus grant when all I/A reserve have been obligated to larger projects. The SCA reserve provides the basic 55% grant while any bonus (20%) comes from the same I/A reserve which larger projects can use. The availability of this bonus can be critical to the development and incentive for the use of alternative technologies for small communities. It often is critically important to the financial feasibility of small community projects since user fees are generally in the high cost category. The uncertainty of its availability complicates program as well as project administration. Unavailability to small communities jeopardizes the use of the SCA reserve for Iowa projects. Small community projects would require a minor portion of the I/A bonus reserve. The department proposes a rule change to allow that the bonus funds for I/A projects will first be obligated to small communities.

In order to provide maximum bonus funds to all I/A projects, the rule change proposed would increase the bonus reserve from the minimum federal requirement of 4% of the state's allotment to the maximum of 7 1/2% for fiscal years 1989 and 1990.

Commission approval is requested to issue a notice for a public hearing on the proposed rule revisions. Following the hearing, a responsiveness summary with any proposed modifications will be presented to the commission with a recommendation for adoption.

(Rule is shown of the following two pages)

July 1989

Environmental Protection Commission Minutes

ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.105 and 455B.245, the Environmental Protection Commission gives notice of intended action to amend Chapter 91, "Criteria for Award of Grants", Iowa Administrative Code.

Chapter 91 provides for the state's administration of activities necessary for the disbursement and management of federal allotments to Iowa for grants for construction of municipal wastewater treatment facilities. Federal Regulations (40 CFR Part 35) and a delegation agreement between the Environmental Protection Agency (EPA) and the Department of Natural Resources provide a basis for the state's authority and administration of the EPA construction grant program.

Chapter 91 describes the delegated administration of federal grant funds by the Department. Section 91.7 describes how federally mandated reserves from federal allotments are administered. The department proposes to increase the designated amount of federal funds reserved from federal allotments beginning in fiscal year 1989 for projects which use innovative or alternative treatment concepts. A revision is also proposed to assure that the federal grant bonus incentive for using innovative and alternative wastewater treatment technology is available to federally funded small communities.

Any interested person may make written suggestions or comments prior to August 30, 1989. Such written materials should be directed to the Administrator of the Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034.

Persons who wish to convey their views orally should contact Allan Stokes, 515/281-6284; or at the department offices on the fifth floor of the Wallace State Office Building, Des Moines, Iowa 50319-0034.

Also there will be a public hearing on August 30, 1989, at 10:00 a.m. in the fifth floor east conference room of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa. Interested persons who wish to present their views orally or in writing at this hearing should contact Allan Stokes at least one day prior to the public hearing. These rules are intended to implement 1989 Iowa Code section 455B.105 and 455B.245.

Chapter 91
Criteria For Award Of Grants

ITEM 1. Amend subrule 567--91.7(2)a as follows:

a. Innovative and alternative reserve -- The Federal Water Pollution Control Act requires that not less than 4 percent nor more than 7 1/2 percent of the state's annual allotment be set aside to increase the federal share of grant awards for projects which utilize innovative or alternative concepts. The state designates 4 7 1/2 percent of its annual allotment for this reserve. Of this amount, not less than 1/2 2 1/4 percent of the state's annual allotment must be used for projects utilizing innovative processes. These funds will be used to increase the basic grant amount by as much as 20 percent to a maximum limit of 85 percent. Innovative and alternative reserve projects receiving 55 percent grant will get a 20 percent increase and those projects which after October 1, 1984, continue to get 75 percent will get a grant increase of 10 percent to 85 percent grant funding. The state will obligate these funds first to projects funded with the small community alternative reserve, then to any projects on the fundable list on a first-come basis until this reserve is depleted or remaining funds are reallocated.

Dated this _____ day of July, 1989.

Larry J. Wilson, Director

(A:EP91.MIN/pg/181A-89)

July 1989

Environmental Protection Commission Minutes

Motion was made by Margaret Prah1 to approve Notice of Intended Action--Chapter 91, Criteria for Award of Grants. Seconded by Clark Yeager. Motion carried unanimously.

CONSTRUCTION GRANT PRIORITY LIST - APPROVAL FOR PUBLIC HEARING

Darrell Mcallister, Bureau Chief, Surface & Groundwater Protection Bureau, presented the following item.

(Priority list is shown on the following 15 pages)

PROPOSED
FOR COMMENT AT PUBLIC MEETING

STATE OF IOWA

IOWA DEPARTMENT OF NATURAL RESOURCES

FISCAL YEAR 1990

CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST

CONSTRUCTION GRANTS FUNDING SUMMARY

The attached funding summary is condensed from the proposed Fiscal Year 1990 State Project Priority List. It includes, in priority order, projects anticipated to be funded with available federal allotments through Fiscal Year 1990. Projects from the Fiscal Year 1989 Fundable List which have not yet been awarded a grant are shown in the first column. Projects in the second column comprise the proposed Fiscal Year 1990 Fundable List. The Fiscal Year 1990 Fundable List is based on an allotment of \$12,629,800 for Fiscal Year 1990.

This assumed allotment is equivalent to the Fiscal Year 1989 allotment received from actual Congressional appropriations. It is emphasized that grant funding for the projects on the proposed Fiscal Year 1990 list is dependent on actual appropriations and allotments to Iowa. An allotment less than \$12,629,800 to Iowa may require the removal or grant adjustment of projects on the Fiscal Year 1990 Fundable List. Appropriation of the full authorization of the Clean Water Act would provide an estimated allotment of \$16.1 million to Iowa and may allow projects to be added to the list or grant amounts increased in some cases. The administration's budget proposal to appropriate one-third of authorized funding would likely require the removal of Laurel and Portsmouth and would reduce the grant available to Winterset substantially.

FY 1989 - FY 1990

CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST

CONSTRUCTION GRANTS FUNDING SUMMARY

STEP	PROJECT	ESTIMATED EPA GRANT ASSISTANCE ***	
		FY 1989	FY 1990
3	Des Moines ICA (segmented)	2,250,000	7,577,850
3	Anes		
3	Marshalltown	2,365,000	
4	Nevada	1,056,000	
4	Iowa Falls		435,600
4	Winterset		985,600
4	West Chester */**		391,050
4	Harvey */**	336,870	
4	Laurel */**		458,200
4	Cumming */**	145,750	
4	St Marys */**	295,680	
4	Portsmouth */**		395,780
FISCAL YEAR FUNDING ESTIMATE		\$6,449,300	\$10,244,080

PROJECT STEP KEY

3 Construction

4 Combination grant for design and construction. Available only when the grant amount is less than \$3 million, the project has not been segmented, and the population is under 25,000.

* Unsewered community

** Small community-alternative technology

*** Grant amount shown is the basic 55% (or 75%) grant. A project may also qualify for innovative/alternative bonus funding.

FY 1990 SUMMARY OF FUNDS

I. Estimated EPA Assistance Required

A. Estimated assistance for projects			\$16,693,380
B. Designated reserve for grant increases			2,691,531
C. Reserve for grant increases for alternative technology	FY 1989	\$ 221,022	
	FY 1990	\$ 663,065	884,087
D. Reserve for grant increases for innovative technology	FY 1988	\$ 89,862	
	FY 1989	\$ 284,170	
	FY 1990	\$ 284,170	658,202
E. Reserve for state management assistance 205(g)	FY 1989	\$ 657,024	
	FY 1990	\$ 657,024	1,314,048
F. Reserve for water quality management 205(j)(1)	FY 1989	\$ 126,298	
	FY 1990	\$ 126,298	252,596
G. Reserve for non-point source management 205(j)(5)	FY 1988	\$ 210,850	
	FY 1989	\$ 126,298	
	FY 1990	\$ 126,298	463,446
H. Reserve for advances of allowances (no need projected FY 1989)			
Total grant needs			\$22,957,290

II. FY 90 Non-additive Set-Aside Reserve Funds

A. FY 1990 reserve for alternative systems for small communities	\$ 505,192
B. FY 1990 quota for unsewered communities	\$ 631,490

III. Available Funds

A. FY 72-87 Carryover (5/01/89)	\$ 6,827,711
B. FY 1988 Allotment Balance (5/01/89)	987,312
C. FY 1989 Allotment Balance (5/01/89)	2,512,467
D. FY 1990 Allotment Assumption	12,629,800
	<hr/>
	\$22,957,290

D: FY90.C

STATE OF IOWA
IOWA DEPARTMENT OF NATURAL RESOURCES

FISCAL YEAR 1990
CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST

The following list contains detailed information for fundable projects in Fiscal Year 1990. It also shows the priority rankings of all other projects which may be eligible for EPA grant funding but cannot be funded with available funds.

Pages 1 through 3 comprise the fundable list.

A summary of funds on Page 4 shows how available fund balances are proposed to be distributed.

Pages 5 through 6 list the subsequent steps or phases of projects which have been initiated with grants assistance.

Pages 7 through 9 show the relative rankings of all other projects which are not fundable.

DESCRIPTION OF STATE PROJECT PRIORITY LIST INFORMATION

COLUMN	DESCRIPTION
<u>Priority Rank</u>	Priority Rank - This is a sequential order of priorities by project and step.
<u>Priority Points</u>	Priority Points - This is the point source rating according to the criteria contained in 91.10(455B).
Applicant Legal Name	Identification of the eligible applicant.
County Name	
Street Address	
City, Zip Code	
<u>Permit No.</u>	Permit No. - Iowa NPDES discharge permit most closely related to the applicant's project. If the project does not have municipal wastewater treatment and collection facilities, "UNSEWERED" is entered.
<u>Auth/Fac No.</u>	Auth/Fac No. - An identifying number for the facility used in the national Needs Survey conducted by EPA. If multiple authorities exist, the word "MULTIPLES" is entered in place of the authority/facility number.
Grant No.	This is the grant number of the predecessor step or project for this project.
Parent	
Project	
Project Number	This is the grant number including a state assigned facility need number and sequence number. The sequence number is the last two digits and indicates the number of the grant award to the applicant under the assigned facility need number (01 indicates first grant award, 02 second, etc.).
<u>Project Step</u>	Project Step
Type	3 - Construction 4 - Combination grant for design and construction
	Type N - New grant award (01 sequence number) C - Continuation grant award (other than 01 sequence number)
State Cert.	Date (year-month-day) by which State anticipates the grant application will be forwarded to EPA for grant award. A preceding F signifies an actual endorsement date, and P indicates a projected target date.
Proj. Desc.	Project Description T - Wastewater treatment facility IT - Interceptor sewer integral to the treatment works as well as a treatment facility Rehab - Cost effective sewer system rehabilitation related to treatment works I(T) - Interceptor sewer construction in lieu of, or an integral phase of treatment works construction, assigned a treatment priority ranking EB - Equalization basin Relief - Relief sewers to transport nonexcessive I/I to treatment facilities Coll - Sanitary sewer collection system Storm Sewer - Cost effective removal of inflow sources; reconnection to storm sewers

COLUMN	DESCRIPTION
SmI Comm	Identification of a project as eligible for increased grant funding from the reserve set aside for small communities proposing alternative to conventional wastewater handling systems. R indicates an eligible community of 3,500 people or less. D indicates eligibility of a sparsely populated area of a larger municipality.
<u>Innov Elig Cost</u> Altern Elig Cost	Innov Elig Cost - Projected portion of a project qualifying as innovative technology by EPA guidelines. Altern Elig Cost - Projected portion of a project qualifying as alternative technology by EPA guidelines.
Total Eligible Cost	Projected costs eligible for EPA grant participation.
Est EPA Assist	Estimated amount of EPA grant assistance required for the project.
Elig Cost by Needs Cat	Category: I - Secondary Treatment II - More Stringent Treatment IIIA - Infiltration/Inflow Correction IIIB - Major Sewer System Rehabilitation IVA - New Collectors and Appurtenances IVB - New Interceptors and Appurtenances V - Correction of Combined Sewer Overflows
Enf Req	Enforceable requirement to be satisfied by the project: A - Project satisfies the conditions or limitations of a Section 402 or 404 permit which, if violated, would result in the issuance of a compliance order or initiation of a civil or criminal action under Section 309 of the Clean Water Act. B - Permit has not been issued, but project satisfies a condition or limitation which would be included in the permit when issued. C - Permit is not applicable but project satisfies a requirement anticipated to be necessary to meet applicable criteria for best practicable waste treatment technology. D - Project does not meet an enforceable requirement of the Act. Y - The project, in its entirety, satisfies the enforceable requirements of the Act for the condition stated in the preceding character position. P - Portions of the project do not satisfy the enforceable requirement of the condition stated in the preceding character position.

A:FY89.C

FISCAL YEAR 1990

CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST

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Priority Rank (59)	Applicant Legal Name County Name Street Address City, State Zip Code (12, 15, 51, 14, 13, 52)	Permit Number (C2) Auth/Fac. No. (32)	Grant Number Parent Project (B2)	Project Number (02, 01, 54) Type (04) 03 = 0	Step (87)	St Cert (A5)	Proj Desc (20)	Sal Comm (33)	Innov Elig Cost (Y7) Altern Elig Cost (Y8)	Total Eligible Cost (29)	Est EPA Assist (19)	Elig Cost by Needs - Cat (Y0-Y6)	Enf Reg
0050 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 61	3 C	P 890831	I Phase 5 Seg 4D			3,000,000	2,250,000	IVB 3,000,000	AY
0060 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 62	3 C	P 891231	I Phase 5 Seg 4A & 4B			4,573,800	3,430,350	IVB 4,573,800	AY
0070 650.24	City of Ankeny Polk County 211 SW Walnut Ankeny IA 50021	IA7709001 MULTIPLES	C190709 10	C190790 09	3 C	P 891231	I Northwest			2,390,000	1,792,500	IVB 2,390,000	AY
0080 650.24	City of Ankeny Polk County 211 SW Walnut Ankeny IA 50021	IA7709001 MULTIPLES	C190709 10	C190790 10	3 C	P 900331	T Phase 3			3,140,000	2,355,000	I 3,140,000	AY
0165 708.98	City of Ames Story County 621 Main Street Ames IA 50010	IA8503001 190023001	C190736 01	C190736 06 Amend 5	3 C	P 891031	T		3,605,000 3,164,000				AY
0190 254.28	City of Marshalltown 24 N Center Street Marshalltown IA 50158	IA6469001 MULTIPLES	C190746 01	C190746 04	3 C	P 890831	T			4,300,000	2,365,000	I 2,150,000 II 2,150,000	AY

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Priority Rank (59)	Applicant Legal Name County Name Street Address City, State Zip Code	Permit Number (02)	Grant Number Parent Project	Project Number (02, 01, 54)	Step (87) Type (04)	St Cert (45)	Proj Desc (20)	Sal Comm (33)	Innov Elig Cost (17) Altern Elig Cost (18)	Total Eligible Cost (29)	Est EPA Assist (19)	Elig Cost by Needs Cat (10-16)	Enf Reg
0200 254.11	City of Nevada 1209 6th Street Nevada IA 50201	IA8562001 190603001	C190845 01	C190845 04 03 - 0	4 C	P 890831	T			1,920,000	1,056,000	I 1,920,000 AY	
0210 190.88	City of Iowa Falls Bardin County 315 Stevens Street Iowa Falls IA 50126	IA4260001 190410001	C190753 01	C190753 02	4 C	P 900630	IT			792,000	435,600	I 678,900 AY IVB 113,100 AY	
0220 147.27	City of Winterset Madison County 101 E Jefferson Winterset IA 50273	IA6171001 190934001	C190743 01	C190743 02	4 C	P 900630	IT Rehab			1,792,000	985,600	I 987,000 AY IIIA 200,000 AY IVB 605,000 AY	
0730 2.10	City of West Chester Washington County Box 115 West Chester IA 52359	UNSENERED NO NUMBER	C191235 01	C191235 02	4 C	P 900831	T Coll	R	200,000 197,000	711,000	391,050	I 291,500 BY IVA 419,500 D	
0840 1.50	City of Harvey Marion County Main Street Harvey IA 50119	UNSENERED 191029001		C191308 01	4 N	P 890831	T Coll	R	177,550 307,450	612,500	336,870	I 199,000 BY IVA 413,500 D	
1325 .226	City of Laurel Marshall County P O Box 126 Laurel IA 50141	UNSENERED 190461001		C191045 01	4 N	P 900630	T Coll	R	441,500	833,100	391,050	I 383,200 BY IVA 449,900 D	

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CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST

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Priority Rank (59) Priority Points (88)	Applicant Legal Name County Name Street Address City, State Zip Code (12, 15, 51, 14, 13, 52)	Permit Number (C2) Auth/Fac. No. (32)	Grant Number Parent Project (82)	Project Number (02, 01, 54) 03 - 0	Step (87) Type (04)	St Cert (A5)	Proj Desc (20)	Sal Comm (33)	Innov Elig Cost (77) Altern Elig Cost (78)	Total Eligible Cost (29)	Est EPA Assist (19)	Elig Cost by Needs Cat (70-76)	Enf Req
1400 .162	City of Cumming Warren County City Hall Cumming IA 50061	UNSEWERED 190198001		C191273 01	4 N	P 890831	T Coll	R	209,800	265,000	145,750	I 78,000 IVA 187,000	BY D
1410 .154	City of St Marys Warren County City Hall St Marys IA 50241	UNSEWERED 190768001		C191029 01	4 N	P 890831	T Coll	R	111,500 166,000	537,600	295,680	I 206,700 IVA 330,900	BY D
1420 .150	City of Portsmouth Shelby County Portsmouth IA 51565	UNSEWERED 190604001	C190994 01	C190994 02	4 C	P 900831	T Coll	R	620,450	719,600	395,763	I 178,900 IVA 540,700	BY D

FY 1990 FUNDABLE LIST SUMMARY OF FUNDS

I. Estimated EPA Assistance Required

A. Estimated assistance for projects on fundable list				\$16,693,380
B. Designated reserve for grant increases				2,691,531
C. Reserve for grant increases for alternative technology	FY 1989 Allotment	\$ 221,022		
	FY 1990 Allotment	\$ 663,055		884,087
D. Reserve for grant increases for innovative technology	FY 1988 Allotment	\$ 89,862		
	FY 1989 Allotment	\$ 284,170		
	FY 1990 Allotment	\$ 284,170		658,202
E. Reserve for state management assistance 205(g)	FY 1989 Allotment	\$ 657,024		
	FY 1990 Allotment	\$ 657,024		1,314,078
F. Reserve for water quality management 205(j)(1)	FY 1988 Allotment	\$ 126,298		
	FY 1990 Allotment	\$ 126,298		252,596
G. Reserve for non-point source management 205(j)(5)	FY 1988 Allotment	\$ 210,850		
	FY 1989 Allotment	\$ 126,298		
	FY 1990 Allotment	\$ 126,298		463,446
H. Reserve for advances of allowances (no need projected for FY 1989) Total grant needs				<u>\$22,957,290</u>

II. FY 90 Non-additive Set-Aside Reserve Funds

A. Reserve for alternative systems for small communities	\$ 505,192
B. Quota for unsevered communities	\$ 631,490

III. Available Funds

A. FY 72-87 Carryover	45/01/89	\$ 6,827,711
B. FY 1988 Allotment Balance	(5/01/89)	987,312
C. FY 1989 Allotment	(5/01/89)	2,512,467
D. FY 1990 Allotment Assumption		<u>12,629,800</u>
		\$22,957,290

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CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST

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Priority Rank (59) Priority Points (88)	Applicant Legal Name County Name Street Address City, State Zip Code (12, 15, 51, 14, 13, 52)	Permit Number (C2) Auth/Fac. No. (32)	Grant Number Parent Project (82)	Project Number (02, 01, 54) 03 - 0	Step (87) Type (04)	St Cert (A5)	Proj Desc (20)	Sal Comm (33) Cost (Y8)	Innov Elig Cost (Y7) Altern Elig Cost (Y8)	Total Eligible Cost (29)	Est EPA Assist (19)	Elig Cost by Needs Cat (Y0-Y6)	Enf Reg
0090 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 63	3 C		I Pleasant Hill Phase 9			3,538,100	2,653,570	IVB 3,538,100	AY
0100 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 64	3 C		I Fournile Phase 8			3,741,400	2,806,050	IVB 3,741,400	AY
0110 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 65	3 C		I So Tier Phase 10 Segment 5			3,100,000	2,325,000	I 3,100,000	AY
0120 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 66	3 C		I Westside M Br FM Phase 5			2,200,000	1,650,000	IVB 2,200,000	AY
0130 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 67	3 C		I Saylor Creek Phase 7			2,900,000	2,175,000	IVB 2,900,000	AY
0140 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 68	3 C		I Beaver Creek Phase 6			2,038,000	1,528,500	IVB 2,038,000	AY

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Priority Rank (59) Priority Points (88)	Applicant Legal Name County Name Street Address City, State Zip Code (12, 15, 51, 14, 13, 52)	Permit Number (C2) Auth/Fac. No. (32)	Grant Number Parent Project (82)	Project Number (02, 01, 54) 03 - 0	Step (87) Type (04)	St Cert (A5)	Proj Desc (20)	Sal Comm (33)	Innov Elig Cost (Y7) Altern Elig Cost (Y8)	Total Eligible Cost (29)	Est EPA Assist (19)	Elig Cost by Needs Cat (Y0-Y6)	Enf Req
0150 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 69	3 C		I So Tier Phase 10 Seg 3, 4			2,200,000	1,650,000	IVB 2,200,000	AY
0160 650.24	City of Des Moines Polk County East First & Locust Des Moines IA 50307	IA7727001 MULTIPLES	C190709 10	C190709 70	3 C		I HE/So Tier Phase 10 Seg 1, 2B			400,000	300,000	IVB 400,000	AY

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CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST
DISCHARGER RANKING

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Points	Project	Points	Project	Points	Project	Points	Project
		29.26	Sully	8.44	Lamoni	3.35	Ferguson *
		23.97	Stacyville	8.40	Jesup	3.25	Graettinger
136.09	Hampton	18.96	Victor	8.38	West Point	3.19	Clear Lake SSD
130.76	Edgewood	18.80	Colfax	8.24	Danville	3.02	Bennett
123.58	Fort Dodge	18.73	Sumner	7.59	Blairtown	2.94	Anamosa
119.41	Albia	17.90	Corning	7.56	Anita	2.75	Low Moor
105.71	Washington	17.71	Dyersville	7.06	Dunlap	2.51	Preston
69.06	Oskaloosa	16.60	Dows	7.05	Dumont	2.50	Lake Park
55.63	Coralville	14.53	Conrad	6.72	Grinnell	2.16	Fort Atkinson *
				6.61	Bussey *		
43.37	Adel	12.82	Wheatland	6.60	Marengo		
				5.86	Deep River *		
41.26	Durant	12.09	Onawa	5.18	Wyoming	1.99	Milo
38.14	Cedar Falls	11.16	Goldfield	4.73	Denver	1.81	Decatur City *
36.36	Emboldt	10.92	Martensdale	4.05	Kiron	1.77	Featon *
36.08	Waterloo	10.79	Woodbine	4.02	Oakland	1.75	Madrid
35.95	Gladbrook	9.96	Missouri Valley	3.93	Wellman	1.75	Joice *
30.23	Carlisle	9.78	Ely	3.60	Millersburg *	1.68	Haverhill *

* Unsevered Community

FISCAL YEAR 1990

CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST
DISCHARGER RANKING

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Points	Project	Points	Project	Points	Project	Points	Project
1.65	Lone Rock *	.941	Colo	.566	Lincoln	.321	Masonville *
1.58	Moorland *	.908	Scranton	.545	Albion	.294	Adair
1.57	Monticello	.862	Lake View	.541	Grand Junction	.278	Grand Mound
1.54	Luxemburg *	.847	Maysville *	.513	Havelock *	.226	Spragueville
1.49	Calmar	.812	Van Horne	.507	Russell	.224	Hawkeye
1.47	Williamsburg	.782	Promise City *	.464	Marne *	.217	Shambaugh
1.42	Griswold	.769	St Anthony	.462	Rose Hill *	.215	Persia *
1.37	Palmer *	.724	Alta Vista	.452	Saledale *	.198	Farnhamville
1.34	Evansdale	.714	Oran SSD *	.429	Hedrick	.195	Hinthrop
1.24	Marcus	.643	Riverton *	.419	Le Grand	.187	Lawton
1.16	Bouton *	.633	Hebb *	.416	Peosta *	.168	Exline *
1.05	Nuna *	.611	Center Point	.397	Essex		
.988	Lucas *	.610	Williamson *	.391	Grant *	.150	Ossian *
.966	Melrose *	.580	Graf *	.390	East Peru *	.148	Gruver *
.965	Earlham	.578	Larchwood	.368	Hastings *	.120	Spring Hill *
.953	Walnut	.574	State Center	.358	Ayrshire *	.099	Lehigh

* Unsevered Community

FISCAL YEAR 1990

CONSTRUCTION GRANTS STATE PROJECT PRIORITY LIST
DISCHARGER RANKING

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Points	Project	Points	Project	Points	Project	Points	Project
.098	Readlyn	.052	Larrabee	.018	Palo	.001	Eldon
.083	Stanhope	.052	Ollie *	.016	Parragut	.0003	Morley *
.078	Maple Heights SSD *	.045	Little Sioux *	.014	Pleasanton *	.0000	Mondamin
.077	McGausland	.042	Clarence	.010	New Liberty *	.0000	Leland
.072	Donabue	.038	Shellsburg	.007	Kirkville *	.0000	Newnall
.066	Keota	.038	Dexter	.007	Bellevue	.0000	Whittier SSD *
.064	Millerton *	.035	Wapello	.006	Redfield		
.062	Lockridge *	.025	Atkins	.006	Alleman *		
.060	Monroe	.025	Ireton	.005	Slater		
.055	Dennmark SSD *	.022	Oyens	.001	Harpers Ferry *		

* Unsewered Community

July 1989

Environmental Protection Commission Minutes

Mr. McAllister distributed a copy of the priority list and explained that this list was developed on the basis that the rule the Commission just approved (Criteria for Award of Grants) will be adopted.

Motion was made by Margaret Prah1 to approve the Construction Grant Priority List for public hearing. Seconded by Clark Yeager. Motion carried unanimously.

PROPOSED RULE--CHAPTER 41, PUBLIC WATER SUPPLIES

Darrell McAllister, Bureau Chief, Surface & Groundwater Protection Bureau, presented the following item.

Draft rules incorporating EPA's latest National Primary Drinking Water Regulations (NPDWRs) are provided for information. The rules will establish the following requirements or changes to public water systems:

- Corrections to the Volatile synthetic Organic Chemicals (VOC) regulations. These corrections were promulgated July 8, 1987 and became effective January 9, 1989.
- Establish new public notification rules to comply with EPA regulations. They were promulgated on October 27, 1987 and became effective April 28, 1989.

The proposed rules will be discussed by staff. It is anticipated that a final Notice of Intended Action, including a public hearing date, will be presented to the Commission for approval at the August meeting.

(Proposed rule is shown on the following 14 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]

NOTICE OF INTENDED ACTION

Pursuant to the authority of Iowa Code Sections 455B.105 and 455B.173, the Environmental Protection Commission for the Department of Natural Resources gives Notice of Intended Action to amend Chapter 41, "Water Supplies," Iowa Administrative Code.

These water supply rules pertain to new general public notification requirements concerning a public water supply systems failure to comply with a maximum contaminant level (MCL), treatment techniques, or a compliance schedule. Rules concerning volatile synthetic organic chemicals (SOC's) are also amended.

These rules are proposed due to promulgation of EPA regulations and amendments concerning public water supply systems.

Subrule 41.4(5)"a" is amended to decrease the length of sampling required for quarterly SOC samples to a one year period where SOC's are detected in any sample in a groundwater system.

Any interested person may submit written suggestions on comments on the proposed rule changes through October 23, 1989. Such written materials should be directed to Joe Zerfas, Water Supply Section, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034. Persons who have questions may contact Joe Zerfas at 515/281-8473. Persons are also invited to present oral or written comments at a public hearing which will be held on October 10, 1989 at 10:00 a.m. in the fifth floor west conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa

These rules may have an impact upon small businesses.

Copies of the proposed rules may be obtained from Sarah Detmer, Records Section, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part 1.

ITEM 1. Amend subrule 41.5(1)"c" by deleting subrule 41.5(1)"c" and replacing it with the following:

c. The public water supply system, within 10 days of completion of each public notification required pursuant to subrule 41.5(2) shall submit to the department a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media.

ITEM 2. Amend subrule 41.5(2) by deleting subrule 41.5(2)"a" through "f" and replacing it with the following.

41.5(2) General public notification requirements:

a. Maximum contaminant level (MCL), treatment technique and compliance schedule violations. The owner or operator of a public water supply system which fails to comply with an applicable MCL established by 41.3, treatment technique established by 41.12(10) or which fails to comply with the requirements of any compliance schedule prescribed pursuant to 41.6(5), shall notify persons served by the system as follows:

(1) By publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure.

(2) If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area and by mail delivery (by direct mail or with the water bill), or by hand delivery, not later than 45 days after the violation or failure. The department may waive mail or hand delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The department must make the waiver in writing and within the 45-day period.

(3) The owner or operator of a community public water supply system in an area that is not served by a daily or weekly newspaper of general circulation must, in lieu of the requirements of paragraphs (a)(1) and (2) of this section, give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists.

(4) For violations of the MCLs of contaminants that may pose an acute risk to human health, the owner or operator of a community water supply system shall, as soon as possible but in no case later than 72 hours after the violation, furnish a copy of the notice to the radio and television stations serving the area served by the public water system in addition the requirements of paragraphs "a"(1), (2) and (3). The following violations are acute violations:

(a) Any violations specified by the department as posing an acute risk to human health.

(b) Violation of the MCL for nitrate as established in 41.3(1) and determined according to 41.4(3)c.

(5) The owner or operator of a noncommunity water system may, in lieu of the requirements of subparagraphs "a"(1)(2) and (3) of this section, give notice within 14 days (72 hours for acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists.

(6) Following the initial notice given under subparagraph "a"(1) through (4) of this subrule, the owner or operator of the public water supply system must give notice at least once every three months by the methods listed, for as long as the violation or failure exists.

b. Other violations and modified permits. The owner or operator of a public water supply system which fails to perform monitoring required by subrule 41.4, fails to comply with a testing procedure established in 567--Chapter 41, is subject to an interim contaminant level or compliance schedule pursuant to 41.5(3), or an unregulated contaminant is detected and the department advises that a public notification is necessary, shall notify persons served by the system by the methods described in 41.5(2)"a" within three months. Notice must continue by methods described in 41.5(2)"a" for as long as the violation exists, an interim contaminant level or compliance schedule remains in effect or the unregulated contaminant is detected.

c. Notice of available information. The owner or operator shall notify persons served by the system of the availability of the results of sampling conducted for special organic chemicals, under 41.4(7), by including a notice in the first set of water bills issued by the system after the receipt of the results or written notice within three months. For surface water supply systems, public notification is required only after the first quarter's monitoring and must include a statement that additional monitoring will be conducted for three or more quarters with the results available upon request. The owner or operator shall also provide to all new billing units or new hookups prior to or at the time service begins, a copy of the most recent public notice for any outstanding violation of any maximum contaminant level established by 41.3, results of sampling conducted under 41.4(7) or any treatment technique requirement established by 41.12(10), which fails to comply with the requirements of any schedule prescribed pursuant to 41.6(5). The notice shall provide a person and telephone number to contact for information.

d. General content of public notice. Each notice required by this subrule must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water supply system as a source of additional information concerning the notice. Where appropriate, the notice shall be multi-lingual.

(e) Mandatory health effects language. When providing the information on potential adverse health effects required by subparagraph "d" of this subrule in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of interim maximum contaminant levels or compliance schedules, or notices of failure to comply with an interim maximum contaminant level or compliance schedule, the owner or operator of the public water system shall include the language specified below for each contaminant. (If language for a particular contaminant is not specified below at the time notice is required, this paragraph does not apply.)

(1) Benzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is a health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline.

Drinking water contamination generally results from leaking underground gasoline and petroleum tanks or improper waste disposal. This chemical has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amount of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for benzene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(2) Carbon tetrachloride. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for carbon tetrachloride at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(3) 1,2-Dichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oils, waxes, and resins. It generally gets into drinking water from improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,2-dichloroethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(4) 1,1-Dichloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1-dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the

enforceable drinking water standard for 1,1-dichloroethylene at 0.007 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(5) Fluoride.

The U.S. Environmental Protection Agency requires that we send you this notice on the level of fluoride in your drinking water. The drinking water in your community has a fluoride concentration of ¹ milligrams per liter (mg/l).

Federal regulations require that fluoride, which occurs naturally in your water supply, not exceed a concentration of 4.0 mg/l in drinking water. This is an enforceable standard called a Maximum Contaminant Level (MCL), and it has been established to protect the public health. Exposure to drinking water levels above 4.0 mg/l for many years may result in some cases of crippling skeletal fluorosis, which is a serious bone disorder.

Federal law also requires that we notify you when monitoring indicates that the fluoride in your drinking water exceeds 2.0 mg/l. This is intended to alert families about dental problems that might affect children under nine years of age. The fluoride concentration of your water exceeds this federal guideline.

Fluoride in children's drinking water at levels of approximately 1 mg/l reduces the number of dental cavities. However, some children exposed to levels of fluoride greater than about 2.0 mg/l may develop dental fluorosis. Dental fluorosis, in its moderate and severe forms, is a brown staining and/or pitting of the permanent teeth.

Because dental fluorosis occurs only when developing teeth (before they erupt from the gums) are exposed to elevated fluoride levels, households without children are not expected to be affected by this level of fluoride. Families with children under the age of nine are encouraged to seek other sources of drinking water for their children to avoid the possibility of staining and pitting.

Your water supplier can lower the concentration of fluoride in your water so that you will still receive the benefits of cavity prevention while the possibility of stained and pitted teeth is minimized. Removal of fluoride may increase your water costs. Treatment systems are also commercially available for home use. Information on such systems is available at the address given below. Low fluoride bottled drinking water that would meet all standards is also commercially available.

¹ The public water supply shall insert the compliance result which triggered notification under this subrule

For further information, contact ² at your water system.

(6) Para-dichlorobenzene. The United State Environmental Protection Agency (EPA) sets drinking water standards and has determined that para-dichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizers, moth balls, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for para-dichlorobenzene at 0.075 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(7) 1,1,1-Trichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the 1,1,1-trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the liver, nervous system, and circulatory system. Chemicals which cause adverse effects among exposed industrial workers and in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1,1-trichloroethane at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(8) Trichloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal cleaning and dry cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth the enforceable drinking water standard for trichloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

² The Public Water Supply shall insert the name, address, and telephone number of a contact person at the public water system.

(9) Vinyl chloride. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for vinyl chloride at 0.002 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

f. Special Notice requirements.

(1) Public notices for Floride.

(a) Community water systems as defined in 40.2(455B) that exceed the fluoride maximum contaminant level eatablished by 41.3(1), are issued an interim contaminant level or compliance schedule pursuant to 41.6(5) shall issue the public notice prescribed by 41.5(2)"e"(5) in addition to the language necessary to replace the superscripts plus a description of any steps which the system is taking to come into compliance.

(b) Public notification requirements for violations of the secondary fluoride maximum contaminant level. Community water systems as defined in 40.2(455B) that exceed the secondary maximum contaminant level of 2.0 mg/l for fluoride as determined by the last single sample taken in accordance with the requirements of 41.4(3), but do not exceed the maximum contaminant level for fluoride as specified by 41.3(1), shall provide the notice prescribed in subparagraph "e"(9) of this subrule to all billing units annually, all new billing units at the time service begins, and to the Director of the Iowa Public Health Department. The notice shall contain the language specified in subparagraph "e"(9) of this subrule in addition to the language necessary to replace the superscripts.

(2) Public notification requirements pertaining to lead.

(a) Within 30 days after the effective date of these rules, September 14, 1988, the owner or operator of each community water system and each nontransient noncommunity water system shall, except as provided in subparagraph "f"(2)(b) of this subrule, issue a notice to persons served by the system that may be affected by lead contamination of their drinking water. The department may require subsequent notices. The owner or operator shall provide notice under this subparagraph even if there is no violation of the lead maximum contaminant level as prescribed in 41.3(1).

(b) Notice required under subparagraph "a" of this subrule is not required if the system demonstrates to the department that the water system, including the residential and nonresidential portions connected to the water system, are lead free as defined in 40.2(455B).

(c) Manner of notice. Notice shall be given to persons served by the system either by three newspaper notices (one for each of three consecutive months and the first no later than 30 days after the effective date of these rules); or once by mailing the notice with the water bill or in a separate mailing within 30 days after the effective date of these rules; or once by hand delivery within 30 days after the effective date of these rules. For nontransient noncommunity water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and start no later than 30 days after the effective date of these rules, and continue for three months.

(d) Notices issued under this subrule shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in paragraph (f) of this subrule in the notice will be sufficient to explain potential adverse health effects.

(e) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

(f) Mandatory health effects information. When providing the information in public notices required under paragraph (d) of this subrule on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower this standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

- if your home or water system has lead pipes, or
- if your home has copper pipes with lead solder, and
 - if the home is less than five years old, or
 - if you have soft or acidic water, or
 - if water sits in the pipes for several hours."

g. Public notification by the Department: The department may give notice to the public required by this subrule on behalf of the owner or operator of the public water system if the department complies with the requirements of this subrule. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this subrule are met.

ITEM 3. Renumber subrule 41.5(3) as 41.5(4). Renumber 41.7(455B) as subrule 41.5(3).

51.5(3) Required public notification for operation permits.

When the director determines that a public water supply cannot promptly comply with one or more maximum contaminant levels of 41.3(455B) and that there is no immediate, unreasonable risk to the health of persons served by the system, a draft operation permit or modified permit will be formulated, which may include interim contaminant levels or a compliance schedule. Prior to issuance of a final permit, notice and opportunity for public participation must be given in accordance with this paragraph. The notice shall be circulated in a manner designed to inform interested and potentially interested persons of any proposed interim contaminant level or compliance schedule.

a. The public notice shall be prepared by the department and circulated by the applicant within its geographical area as described in 41.5(2). The public notice shall be mailed by the department to any person upon request.

b. The department shall provide a period of not less than thirty (30) days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the operation permit. All written comments submitted during the thirty (30) days comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the operation permit. The period for comment may be extended at the discretion of the department.

c. The contents of the public notice of a proposed operation permits shall include at least the following:

- (1) The name, address, and phone number of the department.
- (2) The name and address of the applicant.
- (3) A statement of the department's tentative determination to issue the operation permit.
- (4) A brief description of each applicant's water supply operations which necessitate the proposed permit conditions.

(5) A brief description of the procedures for the formulation of final determinations, including the thirty (30)-day comment period required by paragraph "b" of this subrule.

(6) The right to request a public hearing pursuant to this paragraph and any other means by which interested persons may influence or comment upon those determinations.

(7) The address and phone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to this paragraph, and inspect and copy the application forms and related documents.

d. Public hearings on proposed operation permits. The applicant or any interested agency, person or group of persons may request or petition for a public hearing with respect to the proposed action. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the thirty (30)-day period prescribed in 41.5(3)"b" and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the system, or other appropriate area at the discretion of the director, and may, as appropriate, consider related groups of permit applications.

e. Public notice of public hearings.

(1) Public notice of any hearing held pursuant to this paragraph shall be circulated at least as widely as was the notice under 41.5(3)"a", at least thirty days in advance of the hearing.

(2) The contents of public notice of any hearing held pursuant to this paragraph shall include at least the following:

(a) The name, address, and phone number of the department;

(b) The name and address of each applicant whose application will be considered at the hearing;

(c) A brief reference to the public notice previously issued, including identification number and date of issuance;

(d) Information regarding the time and location for the hearing;

(e) The purpose of the hearing;

(f) A concise statement of the issues raised by the person requesting the hearing;

(g) The address and phone number of the premises where interested persons may obtain further information, request a copy of the draft operation permit

or modification prepared pursuant to this paragraph, and inspect and copy the application forms and related documents; and

(h) A brief description of the nature of the hearing, including the rules and procedures to be followed.

f. Decision by the director. Within thirty (30) days¹ after the termination of the public hearing held pursuant to this paragraph, or if no public hearing is held, within thirty (30) days after the termination of the period for requesting a hearing, the director shall issue or deny the operation permit.

41.5(4) Record maintenance requirements. Any owner or operator of a public water system subject to the provisions of this rule shall retain on its premises or at a convenient location near its premises the following records:

a. Records of bacteriological analyses made pursuant to this part shall be kept for not less than five years. records of chemical analyses made pursuant to this part shall be kept for not less than ten years. Actual laboratory reports shall be kept, or data may be transferred to tabular summaries, provided that the following information is included:

(1) The date, place, and time of sampling, and the name of the person who collected the sample;

(2) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample;

(3) Date of analysis;

(4) Laboratory and person responsible for performing analysis;

(5) The analytical technique or method used; and

(6) The results of the analysis.

b. records of action taken by the system to correct violations¹ of primary drinking water regulations shall be kept for a period not less than three years after the last action taken with respect tot he particular violation involved.

c. Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, state or federal agency, shall be kept for a period of not less than ten years after completion of the sanitary survey involved.

d. Records concerning a permit issued pursuant to 41.5(3) to the system shall be kept for a period ending not less than five years after the system achieves compliance with 41.3(455B).

ITEM 4. Amend subrule 41.3(2)"d" as follows:

d. Synthetic organic chemicals contaminants. The maximum contaminant levels for synthetic organic chemicals contaminants (SOC) apply to community water systems and nontransient noncommunity water systems. Compliance with the maximum contaminant level is calculated pursuant to 41.4(5)"i".

	<u>Level in milli-</u> <u>grams per liter</u>
Benzene	0.005
Vinyl chloride	0.002
Carbon tetrachloride	0.005
1,2-Dichloroethane	0.005
Trichloroethylene	0.005
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.20
para-Dichlorobenzene	0.075

ITEM 5. Amend subrule 41.4(5)"a" as follows:

a. Groundwater systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. Sampling must be conducted at the same location(s) or more representative location(s) every three months for one year each quarter. ~~Groundwater systems must sample every three months for each entry point to the distribution system except as provided in subparagraph "h"(1) of this subrule.~~

ITEM 6. Amend subrule 41.4(5)"g" as follows:

g. Upon request, the department may allow public water supply systems to composite up to five samples from one or more sources. Compositing of samples is to be done in the laboratory by the procedures listed below. Samples must ~~should~~ be analyzed within 14 days of the collection. If any organic contaminant listed in 41.3(2)"d" is detected in ~~the~~ original composite sample, a sample from each source that made up ~~the~~ composite sample must be reanalyzed individually within 14 days from sampling. The sample for reanalysis cannot be the original sample, but can be a duplicate sample. If duplicates of the original samples are not available, new samples must be taken from each source used in the original composite and analyzed for the SOC's specified in 41.3(2)"d". Reanalysis must be accomplished within 14 days of the second sample. To composite samples, the following procedure must be followed.

ITEM 7. Amend 41.4(5)"h" as follows:

h. The department may reduce the monitoring frequency specified in paragraphs "a" and "b" of this subrule as follows:

(1) The monitoring frequency for groundwater systems is as follows:

When SOC's are not detected in the first sample (or any subsequent samples that may be taken) and the system is not vulnerable as defined in

subparagraph "h"(4) of this subrule, monitoring may be reduced to one sample and must be repeated every five years.

When SOC's are not detected in the first sample (or any subsequent sample that may be taken) and the system is vulnerable as defined in subparagraph "h"(4) of this section,

Monitoring (i.e., one sample) must be repeated in every three years for systems with equal to or greater than 500 service connections; and

Monitoring (i.e., one sample) must be repeated every five years for systems with less than 500 service connections.

If SOC's are detected in the first sample (or any subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every three months, as required under paragraph "a" of this subrule.

(2) The repeat monitoring frequency for surface water systems is as follows:

When SOC's are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is not vulnerable as defined in subparagraph "h"(4), monitoring is required every five years.

When SOC's are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is vulnerable as defined in subparagraph "h"(4) of this subrule,

Monitoring must be repeated in every three years for systems with equal to or greater than 500 service connections; and

Monitoring must be repeated every five years for systems with less than 500 service connections.

SOC's are detected in the first year of quarterly sampling (or any other subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every three months, as required under paragraph "b" of this subrule.

ITEM 8. Amend subrule 41.4(5)"g"(5) as follows:

(5) A system is deemed to be vulnerable for a period of three years after any positive measurement of one or more contaminants listed in either 41.3(2)"d" or 41.4(7)"e" or "i" except for trihalomethanes or other demonstrated disinfection by-products:

ITEM 9. Delete subrules 41.4(5)"o" and "p". Subrule 41.4(5)"q" is renumbered as 41.4(5)"o".

ITEM 10. Amend subrule 41.4(7)"b" as follows:

b. Surface water systems shall sample in the distribution system representative of each water source or at entry points to the distribution system after any application of treatment. The minimum number of samples is one year of quarterly samples per water source.

ITEM 11. Amend subrule 41.4(7)"c" as follows:

c. Groundwater systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. The minimum number of samples is one sample per entry point to the distribution system.

ITEM 12. Amend subrule 41.4(7)"i" as follows:

i. Public water supply systems may use monitoring data collected anytime after January 1, 1983 to meet the requirements for unregulated monitoring, provided that the monitoring program was consistent with the requirements of this subrule. In addition, the results of EPA's Ground Water Supply Survey may be used in a similar manner for systems supplied by a single well.

ITEM 13. Amend subrule 41.4(7)"k" as follows:

k. Instead of performing the monitoring required by this subrule, a community water system or nontransient noncommunity water system serving fewer than 150 service connections may send a letter to the department stating that its system is available for sampling. Samples-are-not-required-unless-requested-by-the-department. The letter must be sent to the state no later than January 1, 1991. The system shall not send such samples to the department, unless requested to do so by the department. All community and nontransient noncommunity water systems shall repeat the monitoring required in this subrule no less frequently than every five years from the dates specified in 41.4(7)"a".

ITEM 14. Add subrule 41.4(7)"l" as follows:

L. The department or the public water supply systems may composite up to five samples when monitoring for the substances in 41.4(7)"e" or "i".

ITEM 15. Amend subrule 41.12(10)"a" as follows:

a. The department identifies the following as the best technology, treatment, techniques, or other means available for achieving compliance with the maximum contaminant level for synthetic organic chemicals listed in 41.3(2)"d": Central treatment using packed tower aeration or central treatment using granular activated carbon for all these chemicals (except vinyl chloride).

ITEM 16. Amend subrule 41.12(10)"b" as follows:

b. The department shall require community water systems and nontransient noncommunity water systems to install and/or use any treatment method identified in 41.12(10) as a condition for granting an interim contaminant level except as provided in paragraph "c". If, after the system's installation of the treatment method, the system cannot meet the maximum contaminant level, the that system shall be eligible for a compliance schedule with an interim contaminant level granted under the provisions of 41.7(455B).

ITEM 17. Amend subrule 41.12(10)"c" as follows:

Mr. McAllister distributed a copy of the proposed rule and explained same.

This was an informational item; no action was required.

PROPOSED RULE--CHAPTER 25 AMENDMENT, MEASUREMENT OF EMISSIONS;
AND ADDITION TO NEW CHAPTER 30, CONTROL OF AIR TOXIC POLLUTANTS

Darrell McAllister, Bureau Chief, Surface & Groundwater Protection Bureau, presented the following item.

The Commission will be requested to amend Chapter 25, "Measurement of Emissions," and adopt a new Chapter 30, "Control of Toxic Air Pollutants."

The new Chapter 30 sets forth comprehensive requirements for control of toxic air pollutants from new and existing sources.

Attached is a copy of the Notice of Intended Action.

The Commission will be asked at its August meeting to approve the Notice of Intended Action to receive public comment on these rules.

(Proposed rules is shown on the following 5 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action

Pursuant to Iowa Code section 455B.133, the Environmental Protection Commission proposes to adopt amendments to 567--Chapter 25, "Measurement of Emissions," and a new 567--Chapter 30, "Control of Toxic Air Pollutants."

In accordance with Iowa Code subsections 455B.133(1) and (4), the Commission is authorized to develop plans and programs for the abatement, control, and prevention of air pollution. The plans may include emission limitations, schedules and timetables for compliance with the limitations. The Commission may adopt emission limitations or standards relating to the maximum quantities of air contaminants that may be emitted from any air contaminant source. In accordance with this authority the Commission proposes to adopt a new Chapter 30 which sets forth comprehensive requirements for control of toxic air pollutants from new and existing sources.

Sources exempt from these requirements include sources subject to the National Emission Standards for Hazardous Air Pollutants, gasoline dispensing facilities other than gasoline bulk plants and terminals, dry cleaning facilities, laboratory equipment, residences and equipment used for cultivating land, harvesting crops or raising livestock.

The Commission proposes to regulate sources of air emissions which are carcinogens and noncarcinogens in the following manner.

New and existing sources of carcinogens must apply, at a minimum, control technology adequate to achieve best available control technology for toxics and, if necessary, additional emission controls to reduce the risk from residual emissions to less than one in 1,000,000. To demonstrate compliance with this risk level an air quality impact evaluation must be submitted to the Department.

New and existing sources of noncarcinogens must apply, at a minimum, control technology adequate to achieve best available control technology for toxics and, if necessary, additional emission control to reduce the maximum predicted 24-hour ambient concentration of the toxic air pollutant below 1/100 of the threshold limit value - time weighted averaged. If a ceiling threshold limit value or short-term exposure limit is available, 1/100 of that value cannot be exceeded on a one hour basis.

Upon notification by the Department, existing sources of carcinogens will have six months to submit either a written demonstration of compliance or an emission reduction program that will allow the source to achieve compliance within two years following the departmental notification. The program must include a detailed final control plan and a schedule with certain increments for achieving compliance.

A provision of the rules states that the director may require that a source of toxic air pollutants be tested to demonstrate compliance. In this regard the Commission proposes to adopt an amendment to subrule 567--25.1(7) which shall apply to the regulation of air contaminant sources generally and which provides for the testing of air contaminant sources.

Owners and operators of industrial and commercial operations, manufacturing operations, and other sources of toxic air pollutants will be affected by these rules. For new emissions sources the requirements for obtaining a permit remain essentially the same under the new rules as under the existing rules. For existing sources needing to modify or add emission control equipment to comply with these rules, a permit will be required. In many cases additional control equipment, beyond current rule requirements, may be necessary.

Some of these sources of toxic air pollutants may be small businesses and may be impacted economically.

The Department will conduct three public hearings to receive comments on these proposed rules and rule amendments. They will be held at the following times and places: _____ in the Wallace State Office Building, Fourth Floor Conference Room, 900 East Grand Avenue, Des Moines, Iowa; _____ in the Auditorium, University of Iowa, Oakdale Campus, Oakdale Hall, Oakdale, Iowa (Exit 240, I-80 to Hwy. 965); _____ in the Atlantic Municipal Utilities Building Conference Room, 15 West Third Street, Atlantic, Iowa.

Persons wishing to make written suggestions or comments to this proposal should submit them to Rexford Walker, Air Quality Section, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, through _____.

The following amendments are proposed:

ITEM 1. Rescind subrule 567--25.1(7) and replace it with the following:

567--25.1(7) Tests by owner. The owner of new or existing equipment or the owner's authorized agent shall conduct tests to determine compliance with applicable regulations in accordance with these requirements.

a. General - The owner of new or existing equipment or the owner's authorized agent shall notify the director in writing, not less than fifteen (15) days before a test is performed to determine compliance with applicable regulations of chapter 23 or 30 or a performance evaluation of any required continuous monitor. Such notice shall include, at a minimum, the time, the place, and the name of the person who will conduct the tests. Unless specifically waived by the department, a pretest meeting shall be held not later than fifteen (15) days prior to conducting the compliance demonstration. A representative of the department shall be permitted to witness the tests. Results of the tests shall be submitted in writing to the director in the form of a comprehensive report within six weeks of the completion of the testing.

b. New equipment - Unless otherwise specified by the department, all new equipment shall be tested by the owner or the owner's authorized agent to determine compliance with applicable emission limits. Tests conducted to demonstrate compliance with the requirements with chapter 23 shall be conducted within sixty (60) days of achieving maximum production but no later than one hundred eighty (180) days of startup. Tests conducted to demonstrate compliance with the requirements of chapter 30 shall be conducted within thirty (30) days of startup.

c. Existing equipment - The director may require the owner or the owner's authorized agent to conduct a compliance demonstration test of any equipment if the director has reason to believe that the equipment does not comply with applicable requirements. Grounds for requiring such a demonstration of compliance include a modification of control or process equipment, age of equipment, or observation of opacities or other parameters outside the range of those indicative of properly maintained and operated equipment. Testing may be required as necessary to determine actual emissions from a source where that source is believed to have a significant impact on the public health and/or ambient air quality of an area. The director shall provide the owner or agent not less than thirty (30) days to perform the compliance demonstration and shall provide written notice of the requirement.

ITEM 2. Amend subrule 25.1(9) by adding the following unnumbered paragraph:

Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of Chapter 30 will be those approved by the director.

ITEM 3. Add the following new Chapter 30, "Control of Toxic Air Pollutants" as follows:

Chapter 30
Control of Toxic Air Pollutants

30.1(1) Applicability. Unless exempted in subrule 30.1(2), no person shall discharge or cause or allow the discharge of emissions of toxic air pollutants, except in conformity with the provisions of this chapter.

30.1(2) Exemptions. The provisions of this chapter shall not apply to the following except for equipment installed to abate or eliminate a hazardous condition:

- a. Emissions regulated by subrule 23.1(3)(455B) (National Emission Standards for Hazardous Air Pollutants).
- b. Gasoline dispensing facilities other than gasoline bulk plants and terminals.
- c. Dry cleaning facilities.
- d. Laboratory equipment used for chemical or physical analysis or experimentation.
- e. Residences.
- f. Equipment or control equipment described in paragraph 22.1(2)"d".

567--30.2 Definitions.

"Best available control technology for toxics" (T-BACT) means an emission limitation based on the maximum degree of reduction of each toxic air pollutant which the department determines, on a case-by-case basis, is achievable for such facility through application of production processes and available methods, systems, and techniques, taking into account the potency and toxicity of each toxic air pollutant discharged as well as energy, environmental and economic impacts and other costs.

"Carcinogen" means any substance that the U.S. Environmental Protection Agency has identified as a known, probable or possible cancer-causing agent.

"Existing stationary source of toxic air pollutants" means an installation or source constructed before _____, 1989, or for which the department issued an air construction permit before _____, 1989.

"Noncarcinogen" means any toxic air pollutant that is not a carcinogen.

"Threshold limit value" (TLV) means the airborne concentration of a substance that, according to the American Conference of Governmental Industrial Hygienists (ACGIH), represents conditions to which nearly all workers may be exposed without adverse effect and that is published in "TLVs, Threshold Limit Values for Chemical Substances in the Work Environment, Adopted by ACGIH." TLV includes the following:

(a) "Ceiling TLV" (TLV-C) means a concentration that ACGIH indicates should not be exceeded even instantaneously in a workplace.

(b) "Short-term exposure limit" (TLV-STEL or STEL) means a 15-minute time-weighted average concentration that ACGIH indicates should not be exceeded at any time during a work day.

(c) "Threshold limit value-time weighted average" (TLV-TWA) means a time weighted average concentration recommended by ACGIH for a normal eight-hour workday and 40-hour workweek to which nearly all workers may be repeatedly exposed, day after day, without adverse effect.

"Toxic air pollutant" means an air pollutant for which no applicable ambient air quality standard has been adopted and which in the judgment of the director causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in

serious irreversible, or incapacitating reversible illness. In reaching this judgment the director will take into account the air pollutant's quantity, concentration or physical or chemical characteristics.

"Unit risk factor" means an estimate of the lifetime cancer risk occurring in a hypothetical population in which all individuals are exposed continuously from birth throughout a seventy-year life span to a concentration of one microgram per cubic meter of the toxic air pollutant in the air they breathe.

567--30.3 Permit required. As provided in rule 22.1(455B), no person shall construct, install, reconstruct or alter any equipment or control equipment without first obtaining a permit.

567--30.4 Control of toxic air pollutants from new stationary sources and modifications of existing stationary sources.

30.4(1) Best available control technology required. For each toxic air pollutant emitted by a stationary source, the source shall, at a minimum, apply control technology adequate to achieve best available control technology for toxics. (T-BACT)

30.4(2) Control of residual emissions--carcinogens. If the application of T-BACT is not sufficient to reduce residual risk (maximum individual risk) to less than one in 1,000,000, then additional emission reduction will be required to comply with this risk level.

a. Calculation of risk will involve the use of a unit risk factor developed by the Human Health Assessment Group (formerly Cancer Assessment Group) of the U.S. Environmental Protection Agency. The department will maintain an up-to-date list of unit risk factors and will provide information on these factors upon request.

b. The source must submit an air quality impact evaluation which shall demonstrate that the emissions from the source, in conjunction with emissions from all other sources, comply with this subrule. This evaluation shall include air quality modeling performed in accordance with EPA's document "Guidelines on Air Quality Models (Revised)," as adopted by reference in subrule 22.4(1)(455B), or other methods determined by the director to be reliable.

30.4(3) Control of residual emissions--noncarcinogenic toxic air pollutants. If the application of T-BACT is not sufficient to reduce the predicted maximum ambient 24-hour concentration of the toxic air pollutant below 1/100 of the threshold limit value-time weighted average, then additional emission reduction will be required to comply with this level. If a ceiling threshold limit value or short-term exposure limit is cited in lieu of, or in addition to, the threshold limit value-time weighted average, 1/100 of that value shall not be exceeded on a one hour basis. The source must submit an air quality impact evaluation, as described in paragraph 30.4(2)"b", to demonstrate that the emissions from the source, in conjunction with emissions from all sources, comply with this subrule.

567--30.5 Control of toxic air pollutants from existing stationary sources.

30.5(1) Requirements for sources emitting carcinogens. Stationary sources that emit one or more carcinogens must comply with subrules 30.4(1) and (2)(455B).

30.5(2) Requirements for sources emitting noncarcinogens. Stationary sources that emit one or more noncarcinogens must comply with subrules 30.4(1) and 30.4(3).

30.5(3) Submission of compliance program. Upon notification by the department, existing stationary sources subject to subrule 567--30.5(1) or

30.5(2), or both, must, within six months of the departmental notification, submit either:

a. A written demonstration of compliance with subrule 30.5(1) and 30.5(2); or

b. An emission reduction program that will enable the source to achieve compliance as expeditiously as possible but not later than two years following the departmental notification. This emission reduction program shall include a detailed final control plan and a schedule for the installation of pollution control devices or the replacement or alteration of specified facilities in such a way that emissions of toxic air pollutants are reduced to comply with the emission standard specified in this rule. The schedule must include, as a minimum, the following four increments of progress:

(1) The date by which contracts will be awarded for emission control systems or process modification or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process modifications.

(2) The date of initiation of on-site construction or installation of emission control equipment or process change.

(3) The date by which on-site construction or installation of emission control equipment or process modification is to be completed.

(4) The date by which final compliance is to be achieved.

30.5(4) Action. The director shall approve the plans specified in subrule 30.5(3) if the plans are determined to be adequate and reasonable. A source with an approved program will not be considered to be in violation of rule 30.5.

a. The decision of the director to disapprove a program is final unless appealed to the commission within 30 days of receipt by the applicant. The procedures of the appeal are governed by 567--Chapter 7(455B).

b. Each person responsible for an approved program shall make periodic written progress reports to the department, as specified by the department.

567--30.6 Compliance - continued demonstration.

The director may require the owner or operator of any source of toxic air pollutants to demonstrate compliance pursuant to subrule 25.1(7).

567--30.7 Variances. A person may apply for a variance from the applicable rules or standards specified in this chapter. The procedures for variances are governed by rule 21.2(455B).

Larry J. Wilson, Director

Date

(A:EP30.MIN/166-89)

Mr. McAllister distributed a copy of the proposed rule and gave a detailed explanation of same. He asked the Commissioners to pay close attention to the definitions as they will become important later on, and frequent reference will be made to them as the rules are read.

Clark Yeager asked if staff would provide the Commission with similar information from surrounding states.

Mr. McAllister stated that this information is available, but it is not in the form the Commission would prefer, and it will be provided to the Commission later on.

Margaret Prah1 asked if there is a legislative mandate to develop these rules.

Mr. McAllister replied that there is not a legislative mandate, but the department has the authority to develop the rules.

This was an informational item; no action was required.

FUTURES AGENDA

James Combs, Division Administrator, Coordination & Information Division, presented the following item.

(Futures Agenda is shown on the following 10 pages)

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IOWA DEPARTMENT OF NATURAL RESOURCES

MISSION STATEMENT

To manage, protect, conserve, and develop Iowa's natural resources so that the quality of life for Iowans is significantly enhanced by the utilization and enjoyment of those resources.

The Department will seek to balance and concurrently implement all of the following components of its mission in all of its programs.

Actively encourage the wise and beneficial utilization and development of Iowa's natural resources so that those resources are available for others, present and future, to utilize and enjoy.

Support the development of renewable resources that minimize the need to consume non-renewable resources.

Support the development and implementation of practices that prevent or minimize the negative impact of human activities on long-term natural resources management.

Develop, modify, implement, and manage programs that assign the cost of using and managing Iowa's natural resources to the people and businesses that benefit from that use and management.

Develop programs and facilities that provide all Iowans access to public natural resources for recreational enjoyment, education, aesthetic appeal, and quality of life.

Inform and educate Iowans about Iowa's natural resources and about how they can help to manage, develop, protect, and conserve those resources.

Inform and educate Iowans about how natural resource management and protection is fundamental to long-term sustainable economic vitality and quality of life.

Work to instill a conservation ethic in all Iowans.

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IOWA DEPARTMENT OF NATURAL RESOURCES

CRITICAL ISSUE ANALYSIS: STATE-MANAGED INFRASTRUCTURE

CRITICAL ISSUE: Iowa's historic investment in its system of parks, preserves, forests, recreation, fishing, and wildlife areas, as well as the associated infrastructure of roads, dams, lakes, campgrounds, habitat areas, recreation facilities, hatcheries, and nurseries presents a need for renewal and management that has not been met by the State's recent methods of funding such needs. While the funds "promised" to be provided through the Resource Enhancement and Protection program will go a long way toward meeting these needs, at present they do not amount to a significant increase in the total funds available to the Department for these purposes.

SUPPORTING DATA: Nearly 350,000 acres of lands and waters are managed by the DNR. This acreage, combined with over 5000 campsites, several hundred miles of roadway and trails, dozens of artificial lakes, thousands of acres managed for habitat, two forest nurseries, five fish hatcheries, hundreds of picnic shelters, lodges, and other buildings requires annual support of \$35,000,000. [1]

Funds available for infrastructure development and management is estimated to be \$27,000,000 [2] per year for the next five years.

Past funding levels have not met the need resulting in a backlog of infrastructure needs that further compounds the shortfall.

Establishment of the State Land Management Account in the REAP Act provides the potential for a stable and sizeable source of funds with broad authority to expend those funds to meet high priority infrastructure needs on all state-owned open space lands and resources.

While there is a standing general fund appropriation of \$20 million per year for FYs 1991 through 2000, and there is a "promise" by the General Assembly of at least an additional \$10 million per year from Lottery proceeds; at this point there is no assurance that these amounts will, in fact, materialize.

Expected recreation demand and wildlife habitat needs over the next five years will not be met without continued management of existing land areas and facility infrastructure.

ROOT CAUSES: Because of limited funds, 20% of current renewal and management needs have not been met in recent years.

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CONCLUSIONS:
(cont'd) Original infrastructure built with substantial federal assistance and inexpensive labor often costs more to rehabilitate and manage than the cost of initial development.

The financial needs for responsible maintenance of the State's open space infrastructure are very real and are growing. In most cases, the elimination of that infrastructure is not a viable option.

Major new sources of funding, both user fee and general fund sources such as that incorporated in the REAP Act, need to be explored and pursued.

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IOWA DEPARTMENT OF NATURAL RESOURCES

CRITICAL ISSUE ANALYSIS: NEW FACILITY DEVELOPMENT

CRITICAL ISSUE: Demand exists in Iowa for the completion of recently acquired park and recreation areas, forest, wildlife and fishing areas and associated facilities and is documented in the Iowa Open Spaces Protection Plan, the Iowa Wetlands Protection Plan, the Statewide Comprehensive Outdoor Recreation Plan and other documents.

SUPPORTING DATA: The Open Spaces Protection Plan, in responding to a directive from the Iowa General Assembly, documented the needs and opportunities in Iowa for protecting over two million acres of high quality open space. The 1989 REAP Act has as its primary objective the implementation of high priority recommendations in the Open Spaces Plan; and REAP offers a signal that the support and commitment to open space protection and management has intensified.

Goals for open space acquisition in the Open Spaces Plan require funding far in excess of current levels.

Funding of REAP at the proposed \$30 million annual level will enable the State and its political subdivisions to make substantial progress toward the goals of doubling protected open space areas by the year 2000, and of providing facilities for the public's enjoyment and use of those areas.

Facility development needs for new lakes, forests, and recreation areas amounts to \$10,000,000 (4) annually for the next five years.

While REAP has enhanced the funding levels for such developments, there remains a need for some \$3 million annually to meet the needs.

ROOT CAUSE: Lack of public land in Iowa for open space and conservation benefits, coupled with comparatively low priority for funding programs to improve the situation.

Iowans generally do not recognize or acknowledge the economic benefits of Iowa's natural resources and the proper management of those resources for outdoor recreation and related activities.

CONCLUSIONS: More funding is needed to meet demand expressed in the above-mentioned plans, acts, and surveys.

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CONCLUSIONS:
(cont'd)

The historic, widely-held perception among Iowans holds that the state's natural resources are not worthy of the level of investment and commitment made in other states. As a result, Iowa has fallen behind several of its neighboring states in programs to protect these resources. REAP may signal a turnaround.

If demand cannot be met, Iowans will have to accept what can be provided; or leave the State for recreational opportunities.

Natural resource land and associated infrastructure enhancement should be more closely identified with Iowa's quality of life and economy.

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IOWA DEPARTMENT OF NATURAL RESOURCES

CRITICAL ISSUE ANALYSIS: ENERGY SUPPLY AND PRICE

CRITICAL ISSUE: Iowa will face critical energy supply and price pressures in the next 3 to 5 years. The situation will be volatile because of the relationship between all fuels and fuel prices.

SUPPORTING DATA: Iowa imports 98% of its energy which means that Iowa sends \$3.2 billion per year out of state to pay for that energy.

Iowa is adversely affected by energy cost increases, more so than 39 other states. (5)

Iowa's economy would lose at least \$1.13 billion per year discretionary money if energy prices increase to their 1985 levels. (6)

Energy cost considerations do not include all costs, especially environmental costs, associated with burning fossil fuels.

The pressure for energy efficiency improvements from the federal government will increase as they are viewed as relatively "easy" actions to mitigate environmental degradation. (7)

ROOT CAUSES: Iowa produces very little of its own primary energy, especially petroleum-based products.

Energy costs have been determined, in large part, by a world and national market.

CONCLUSIONS: Energy efficiency improvements have great potential for an improved environment and positive economic impact.

Iowa must invest in strategies to support the development and use of its undeveloped indigenous energy resources (biomass; hydropower, coal and others) in an environmentally sound manner. (8)

Development of an energy efficiency industry will provide Iowa greater positive impact than most other forms of economic development and will provide export opportunities. (9)

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IOWA DEPARTMENT OF NATURAL RESOURCES

CRITICAL ISSUE ANALYSIS: ENVIRONMENTAL PROTECTION PROGRAMS

CRITICAL ISSUE: Human activities, particularly activities associated with sustaining and building a viable economy, which adversely impact and further degrade the natural environment can seriously diminish the State's quality of life and economic development potentials.

SUPPORTING DATA: Environmental monitoring data show that Iowa still has serious environmental contamination problems of its air, surface and ground water, and land. (10)

Poor water quality negatively affects fish, other aquatic resources, and recreational activities.

Iowa has an unacceptably high soil erosion rate.

Forest acreage covered 19% of Iowa in 1850, but covered only 4% in 1974.

Wetland acreage has been reduced by 75% since 1900.

ROOT CAUSES: Lack of public awareness/concern for necessity of proper environmental protection efforts.

Lack of demonstrated, cost-effective alternative methods for dealing with residential, commercial and industrial wastes and by-products.

Inadequate enforcement powers and personnel to ensure compliance with protective regulations.

Conversion of native vegetation to agricultural land uses, especially intensive row crop agriculture.

Lack of acceptance of the worth of wetlands, forests, native prairies and other natural resource lands.

Lack of sufficient statutory authority to effectively address non-point source pollution problems.

Federal agricultural policies have ignored the environmental impact of the practices and programs that they encouraged.

CONCLUSIONS: Iowa must continue to seek out and develop increased, stable and sustainable sources of revenue to support necessary environmental protection programs.

Iowa must develop and sponsor more public education/public awareness programs to develop and enhance environmental ethic/concern in all Iowans.

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CONCLUSIONS:
(cont'd)

Iowa must develop and fund programs to effectively implement the Waste Volume Reduction and Recycling Act, the Infectious Waste Management Act, Underground Storage Tank legislation, Groundwater Protection Act and other recently established or expanded authorities aimed at correcting and preventing further environmental contamination.

Iowa must expand existing programs and develop new programs to reduce soil erosion, improve water quality, and control non-point pollution.

Iowa must develop programs to restore and enhance wildlife habitat, forests, and wetlands and to protect aquatic resources.

Iowa must develop a viable industry to recycle and utilize the by-products and wastes of human activities occurring within the State.

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IOWA DEPARTMENT OF NATURAL RESOURCES

CRITICAL ISSUE ANALYSIS: ENVIRONMENTAL PROGRAM FUNDING

CRITICAL ISSUE: A stable, dependable, long-term source of funding has been lacking in the past, but is crucial for effective planning and implementation of programs to address problems. Several important elements are involved in this issue, e.g. the alternative sources of, and ratio between general fund sources and user fees; the emphasis placed on monitoring of ambient conditions versus that placed on a permit procedure which in essence allows acceptable levels of pollutants.

SUPPORTING DATA Experience has shown that fees placed on an undesirable activity as a disincentive can be very effective in curtailing that activity. However it is unwise to fund longterm, comprehensive protection programs from such fees when the very idea is to eliminate the practice and, as a consequence, eliminate the funding source.

Many environmental problems have evolved over an extended period of time and will not be remedied with quick cures. Many require extensive study and documentation of ambient conditions and/or trends as evidence that actions are indeed needed. Those actions may be longterm in nature as well. All these factors require that a longterm commitment exist to provide responsible stewardship of the natural resource base of Iowa.

ROOT CAUSES The short-term perspective and short attention span of much of the general public makes the implementation of the long-term solutions to most environmental problems very difficult and often affects the options that can be considered by public policy makers.

Lack of awareness and acceptance of long range problems and the needed long term programs to address those problems.

Lack of good data on the impacts and costs associated with environmental pollutants sufficient to justify serious commitment from general fund sources.

CONCLUSIONS Public education and/or marketing need to be emphasized and woven into all programs aimed at establishing longterm public commitment to environmental funding.

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CONCLUSIONS:
(cont'd) Better understanding on part of administrators, legislators, and the general public on the total costs of environmental problems is needed, along with an understanding of the total spectrum of beneficiaries and benefits.

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IOWA DEPARTMENT OF NATURAL RESOURCES

CRITICAL ISSUE ANALYSIS: RESOURCE COMPETITION

CRITICAL ISSUE: Increased demand for State support of social and economic programs resulted in a continued reduction in the percent of the State budget that has been allocated to natural resource management programs at times when the demand for natural resource and outdoor recreation programs continued to increase. At the same time, federal support for such programs has been reduced or eliminated.

The REAP program and funding may represent the beginning of the end of this as a critical issue for natural resource management programs; however, the issue is still critical for environmental protection programs.

SUPPORTING DATA: Iowa's population is aging and as a result will require additional health care services. (12)

The shift of Iowa's population from rural to urban centers will affect the demand for publicly accessible outdoor recreation facilities.

Iowans are becoming more interested in leisure time activities, especially those that involve exercise and being outdoors.

Public education/marketing should be aimed at these Iowans in order to build an informed constituency.

The Land and Water Conservation Fund which formerly provided four to five million dollars annually to the State of Iowa and its political subdivisions for cost-sharing outdoor recreation projects now provides only \$250,000 annually.

ROOT CAUSES: Iowans are living longer.

Iowans of all ages have increased quality of life expectations.

Expectation that government will assure a minimum quality of life for all citizens.

Iowa's natural resources have, until recently, had no broad perspective advocates outside of the Department.

CONCLUSIONS: Policy makers need to understand the basic role that natural resource management plays in assuring the quality of life for Iowans.

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CONCLUSIONS:
(cont'd)

Policy makers have to balance social and economic programs with natural resource programs in assuring the quality of life desired by Iowans.

Natural resource managers have to make choices in what resources are protected, managed, developed, and provided; and must maximize the effective use of human, financial and natural resources in doing so.

Natural resource managers have to work more effectively together in utilizing their resources and implementing creative strategies to fulfill their missions.

Natural resource managers must consciously work to build the broad public constituencies needed to assure that natural resource management programs receive an allocation of resources consistent with demand and use expectations.

Natural resource program supporters must continue to cooperate in the support of a broad spectrum of natural resource management and development programs in order to become effective advocates.

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IOWA DEPARTMENT OF NATURAL RESOURCES

STRATEGIES

1. DEPARTMENT MANAGED INFRASTRUCTURE:

The Department will work closely with the Governor, the General Assembly, and the Resource Enhancement and Protection Congress, federal government, and private organizations to examine alternative methods of managing and maintaining the State's investment in its system of parks, preserves, forests, recreation, fishing and wildlife areas and to develop acceptable long-term stable mechanisms for providing the resources necessary to manage and maintain this infrastructure.

2. NEW FACILITY DEVELOPMENT:

The Department will emphasize the importance of implementing the Iowa Open Spaces Protection Plan, the Iowa Wetlands Protection Plan, the North American Prairie Pothole Joint Venture, and similar programs in a timely and comprehensive manner as it works with the Governor, the General Assembly, and the REAP Congress in directing Iowa's resource enhancement, protection, development, and management programs. A significant amount of emphasis will be placed on explaining the importance of timely and comprehensive implementation of these types of programs to the public.

3. ENERGY SUPPLY AND PRICE:

The Department will submit a comprehensive long-range energy plan for the State to the Governor and General Assembly by January 1990, that will provide direction for Iowa's energy conservation and energy resource development efforts into the next century. It will then work to implement that plan by recommending necessary statutory and regulatory changes, enhance programs to convince Iowans of the importance of energy conservation and energy efficiency, and develop creative solutions to energy conservation and efficiency obstacles in Iowa.

4. ENVIRONMENTAL PROTECTION PROGRAMS:

The Department will continue to implement environmental programs that emphasize preventing pollution caused by human activities and will systematically examine ways to incorporate that philosophy into the traditionally regulatory approaches to environmental protection. Where necessary, the Department will make regulatory changes or seek statutory changes to adjust environmental protection programs to emphasize preventing pollution but backed with strong and effective regulatory authority for use when prevention programs are not successful.

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STRATEGIES (cont'd)

5. ENVIRONMENTAL PROGRAM FUNDING:

The Department will work with the Governor and General Assembly to develop stable long-term sources of funding for environmental protection programs. Funding alternatives that help to accurately assign the cost of pollution to those creating it will be given primary consideration. In addition, the Department will seek to develop a foundation of funding for key monitoring, response, research, and public education programs.

6. COMPETITION FOR LIMITED RESOURCES:

The Department will focus a significant portion of its public information and education efforts on explaining to public policy-makers and the general public the importance of fundamental natural resource management and environmental protection programs in assuring that Iowa's economy continues to grow in all sectors and that Iowa is a desirable place for people to live and businesses to operate. The efforts also will emphasize the role that each citizen of Iowa and each organization has in assuring Iowa's environmental quality improves and continues to be a very positive aspect of Iowa's quality of life.

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LONG TERM OBJECTIVES

1. To develop and expand additional long-term stable funding mechanisms for Iowa's natural resource management, protection, and development programs by 1994.
2. To implement statutory changes that provide all of the Department's programs with the authority necessary to fulfill the Department's mission by 1994.
3. To conceive, develop, and implement alternative strategies involving the cooperation of all levels of government and the private sector for the management, protection, and development of Iowa's natural resources by 1994.
4. To develop an awareness in Iowa's public, civic, and economic decision-makers of the importance of managing, protecting, and developing Iowa's natural resource base to the maintenance and development of Iowa's economy and quality of life by 1994.
5. To strengthen the public's understanding and support of the critical role they play in maintaining and enhancing Iowa's natural resources and the importance of natural resources to Iowa's quality of life by 1994.
6. To develop and implement plans for renewal of Iowa's forest resources, expansion of wildlife habitat and open spaces, and protection and development of Iowa's energy capacity by 1990.

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FOOTNOTES

1. \$35,000,000 represents the combined operational and capital budget needs expressed in the FY 1990 budget requests of the Fish & Wildlife, Forestry, and Parks, Recreation & Preserves Divisions.
2. \$27,000,000 represents the FY 1989 operational and capital budget needs of the Fish & Wildlife, Forestry, and Parks, Recreation & Preserves Divisions.
3. The objectives are contained in the 1988 Open Spaces Plan, House File 620 of the 1987 Legislature, the 1985 Park User Survey, the 1986 State Comprehensive Outdoor Recreation Plan, the 1986 Fishing Survey, the 1985 Forest Resources Plan, the 1985 Iowa Plan, and the 1980 Protected Water Act (Chap 108A).
4. \$10,000,000 represents the funds needed for completion of the development of major recreation areas identified in 1985 Iowa Plan.
5. Energy cost increases result in higher unemployment and inflation for Iowa.
6. \$1.13 billion per year is the amount Iowans saved between 1985 and 1988 as a result of dropping energy prices.
7. The federal government is particularly concerned with the environmental impacts of fossil fuel use in the areas of solid waste management, global warming, acid rain, and ozone layer depletion.
8. Iowa's most undeveloped indigenous energy resources are coal, hydro, municipal solid waste, wood, and agricultural products.
9. Iowa's furnace and appliance manufacturers are already capitalizing on this export market.
10. The following is a representative sample of the monitoring data that shows current environmental contamination problems in Iowa.

Based on recent State water quality reports:

20% of Iowa's surface streams were not meeting their designated uses under State water quality standards.

79% are only partially supporting their designated uses.

Only 1% of Iowa's streams fully support their designated use.

Cause for water bodies not meeting designated water quality standards uses attributable to non-point pollution resulting from agricultural practices, urban stormwater runoff, and point source discharges.

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FOOTNOTES (cont'd)

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Recent statewide survey of public drinking water supplies for the presence of pesticides and synthetic organic compounds showed two-thirds of the water supplies containing detectable levels of one or more contaminants in the finished drinking water. Nine supplies had levels which exceed federally established maximum contaminant levels or health advisory levels.

An average of two incidents of leaking underground storage tanks are reported each day to the Department. Most involve contamination of surface and shallow groundwaters.

The Department is currently in the process of investigating over 200 potential abandoned or uncontrolled solid/hazardous waste disposal sites in the State. New sites are added each quarter.

One-third of the State's permitted sanitary disposal projects have documented leachate problems.

The Department continues to monitor violations of natural ambient air quality standards in certain portions of the State.

11. Some of the prohibitions and mandates that should be considered are a ban agricultural drainage wells, a mandate requiring the regionalization of solid waste disposal efforts, and a ban on land disposal (subsurface burial) of certain solid wastes (eg. heavy metals, solvents).

12. DOM "Outlook for the 90's"

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Mr. Combs distributed a copy of the Futures Agenda and Mission Statement. He explained that the idea of the futures agenda process and concept is to do some strategic planning for the State of Iowa. This is accomplished with each state department working in clusters of two or three departments to determine issues most critical to their cluster. The Department of Natural Resources is clustered with the departments of Transportation, Economic Development, Employment Services, and Commerce. Each cluster develops a cluster futures agenda and it is presented to the Governor. The Governor then uses the material, along with additional information, to develop a futures agenda for the State of Iowa. This is incorporated as part of the budget process and the budget must match the futures agenda. Mr. Combs further explained the details of the futures agenda. He added that the department will try to include any comments the Commission may have.

Nancy Lee Siebenmann commented that in the environmental protection programs there is nothing that speaks to human health. She is concerned that there should be something to state that we want to preserve and enhance the health and well being of Iowans. She also noted that the Mission Statement does not address assisting people to meet the kinds of quality that we are looking for.

Clark Yeager was concerned that on page 13, the Environmental Protection Programs were listed last as if these programs were least important.

Discussion followed regarding various issues of the futures agenda.

This was an informational item; no action was required.

GROUNDWATER CLEANUP GUIDELINES

Richard Hartsuck pointed out that it was decided yesterday the Commission would discuss the groundwater cleanup standards again today and that he is ready to take action on it.

Motion was made by Richard Hartsuck to have staff develop amendments to Chapter 133, General Guidelines for Determining Clean Up Actions by Responsible Parties, to substitute EPA issued MCL's if available, if MCL's not available to use HAL's, and if neither of those are available to use NRL's at the "one times ten to the minus five" level. Seconded by Clark Yeager.

Commissioner Hartsuck stated that the Commission has to make a multitude of decisions in many different areas and it is his feeling that there has to be some consistency in basic, underlying philosophy, otherwise it would be a hodge-podge of

chaos. He added that it would achieve better consistency to use the same standards for cleanup of point source contamination in groundwater as those used for public water supplies. He stated that it is easy to argue the absolute position going as far as possible in protecting human life, but the fact of the matter is that compromises have to be made.

Nancylee Siebenmann stated that she would oppose the motion and noted that Iowa can be proud of its Groundwater Protection Act which can be a model for the rest of the states. She related that it is unique in that it is preventative in its thrust, and it is certainly not easier to argue that position because it is, in some cases, more costly but is harder to accomplish. At the same time, example after example has been seen when people thought they had adequate protection limits, and later on those limits have been found to be erroneous. She added that it is her feeling that the Commission should not move to the MCL for cleanup, even though it is the easiest to administer, because it does not have the safety level that she would like to see used as a model in Iowa.

Clark Yeager commented that he is in favor of using MCL's.

Margaret Prahl asked if passage of this motion would result in a new rulemaking action.

Mr. Combs responded that a new rulemaking action would be necessary and a Notice of Intended Action would go out to public hearing.

Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Ehm, Hartsuck, King, Prahl, Priebe, Yeager, and Mohr. "Nay" vote was cast by Commissioner Siebenmann. Motion carried 7 to 1.

ADDRESS ITEMS FOR NEXT MEETING


Futures Agenda
Legislative Package for 1990
Update on Big Spring
Orientation
Meeting Times and Dates
Recycling Report

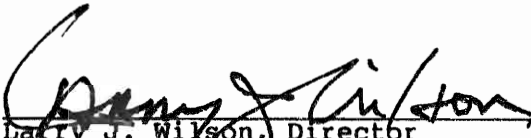
July 1989

Environmental Protection Commission Minutes

ADJOURNMENT

With no further issues to come before the Environmental Protection Commission, Chairperson Mohr adjourned the meeting at 11:30 a.m., Tuesday, July 18, 1989.


Nancy Lee Siebenmann, Secretary


Larry J. Wilson, Director

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RECORD COPY *Meeting July 17-18, 1989*
File Name *ADM-1-1-1 EPC*
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MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
July 17-18, 1989

Meeting convenes at 1:30 p.m., July 17, 1989 in the fourth floor conference room, following the Hazardous Waste Site License Commission meeting. Meeting will reconvene on July 18, 8:30 a.m., if necessary.

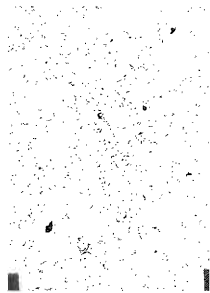
Appointments:

Dr. Andrew Klein, Ph. D.	2:00 p.m.
Dr. Peter Isacson, M.D.	2:20 p.m.
Public Participation	3:00 p.m.

Meeting reconvenes 8:30 a.m., July 18, 1989 (if necessary)

1. Approve Agenda
2. Approve Minutes of June 19-20, 1989.
3. Fayette Remedial Design Contract. (Kuhn) Informational.
4. FY 90 Budget Brief. (Kuhn) Informational.
5. Monthly Reports. (McAllister) Informational.
6. Notice of Intended Action--Chapters 60, 61, & 62, Water Quality Standards. (McAllister) Decision.
7. Final Rule--Chapters 135-136, Underground Storage Tank Financial Responsibility. (McAllister) Decision.
8. Notice of Intended Action--Chapter 91, Criteria for Award of Grants. (McAllister) Decision.
9. Construction Grant Priority List - Approval for Public Hearing. (McAllister) Decision.
10. Proposed Rule--Chapter 41, Public Water Supplies. (McAllister) Informational.
11. Proposed Rule--Chapter 25 Amendment, Measurement of Emissions; and Addition to New Chapter 30, Control of Toxic Air Pollutants. (McAllister). Informational.

(NOTE: This item to follow Appointments with Dr. Andrew Klein and Dr. Peter Isacson)
12. Futures Agenda. (Combs) Informational.



ENVIRONMENTAL PROTECTION COMMISSION

Monday July 17, 1989

NAME

COMPANY OR AGENCY

CITY

(please print)

Warren M. STRAUSS

Monsanto

ST. Louis

Andrew J. Klein

Monsanto

ST. Louis

Charles Bullard

D.M. Register

Ken Nelson

Fish Control

Marshalltown

Jack Kanner

IABI

Des Moines

Scott Koehnemann

C.R. Gazette

Des Moines

DAN LEST

GROWMARK

Bloomington, IL.

TED VANCEK

FARM BUREAU

WDSM

JANE McALISTER

AHLERS LAW FIRM

DM

HARRIS SEIDEL

CITY OF AMES

AMES

Theresa Kehoe

St Sen

DSM

Jeff Robinson

Reg Fiscal Bureau

DSM

Harvey Holden

Mayor

Washington D

Bob Huber

County Engineer

Washington, Iowa

Don McHose

High Plains Products Ltd
Esther J. Gasper

Elkhart, Iowa

ENVIRONMENTAL PROTECTION COMMISSION

Tuesday, July 18, 1989

NAME	COMPANY OR AGENCY	CITY
(please print)		
DAN VEST	GROWMETRIC	Bloomington, IL
JACK SOENER	IA ASSOC. BUSINESS & IND	DES MOINES.
HARRIS SEIDEL	CITY OF AMES	AMES
JANE McALLISTER	Ahlers Law firm	Des Moines
ROD Boshert	CR Gazette	Cedar Rapids